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REPORT BY THE U.S.

General Accounting Office

The Bureau Of Reclamation Could Identify More Unneeded Land

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A January 1983 Bureau of Reclamation report identified about 1.3 million acres of land as unneeded for project purposes. That report, however, did not include 472,600 acres which GAO subsequently identified as unneeded. This occurred primarily because Reclamation's annual property reviews did not include detailed reviews of specific parcels of land and it had not completed reviewing the need for all public domain land under its jurisdiction. Recognizing the need to improve its land management program, Reclamation has been implementing a land-use inventory and automated real property asset management system. This could help Reclamation develop a comprehensive and accurate inventory of land no longer needed for project purposes.

Normally, proceeds from the sale of unneeded land are used to reduce the financial obligations of irrigation districts. In this respect, three irrigation districts at the Columbia Basin Project in Washington could receive reductions in their repayment obligations of about $39 million if 73,000 acres of unneeded land are sold. The land was purchased by the federal government in the early 1940's for other than water project purposes. GAO recommends that Reclamation consider whether the federal government's interests in this land outweigh the irrigation districts' asserted contractual, reliance, and equitable interests and refrain from selling additional settlement land until a determination is reached.

GAO/RCED-85-25
APRIL 12, 1985

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WASHINGTON, D.C. 20548

RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION

B-211493

The Honorable James A. McClure
Chairman, Committee on Energy and
Natural Resources
United States Senate

The Honorable Malcolm Wallop
Chairman, Subcommittee on Public Lands
and Reserved Water
Committee on Energy and Natural
Resources
United States Senate

In response to your January 18 and 19, 1983, letters, this report discusses the Bureau of Reclamation's process for identifying unused/underused land.

As arranged with your offices, copies of this report are being sent to the Secretary of the Interior; the Director, Office of Management and Budget; the Administrator, General Services Administration; and other interested parties. Copies will also be made available to others upon request.

J. Dexter Peach
Director

GENERAL ACCOUNTING OFFICE REPORT

THE BUREAU OF RECLAMATION COULD IDENTIFY MORE UNNEEDED LAND

D I G E S T

The Department of the Interior's Bureau of Reclamation manages 220 water projects on 6.6 million acres of federal land. Reclamation dams and reservoirs provide water for irrigation, municipal and industrial use, energy production, recreation, water quality control, and fish and wildlife enhancement and provide protection from flooding.

The Federal Property and Administrative Services Act of 1949 regulations require reviews of public domain[1] and acquired land[2] to identify federal land holdings in excess of project needs. In addition, the Federal Land Policy and Management Act of 1976 requires the Secretary of the Interior to determine by 1991 whether federal agencies still need certain public domain land under their jurisdiction. During fiscal years 1978-83, 1,494,068 acres of Reclamation land were reported to the Bureau of Land Management and the General Services Administration.

On February 25, 1982, the President signed Executive Order 12348 establishing a Property Review Board. The Board in accordance with the requirements of the order asked federal agencies to identify and dispose of land and other real property not being used for their intended purposes. The Board said that sales revenues were to help reduce the national

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[1]Public domain land is land that the federal government obtained through various cessions, treaties, and purchases from other sovereigns as the country expanded westward in the 19th century. Unneeded public domain land is reported to Interior's Bureau of Land Management for disposition.

[2]Lands which were obtained by the federal government through purchase, condemnation, gift, or exchange. Such land is accounted for separately from public domain land. Most unneeded acquired land is reported to the General Services Administration for disposal.

debt. Other anticipated benefits included reduced management costs. (See p. 1.)

The Chairman, Senate Committee on Energy and Natural Resources, and the Chairman of the Committee's Subcommittee on Public Lands and Reserved Water asked GAO to review four federal land-managing agencies' programs to identify and sell unneeded land. This report discusses Reclamation's program. (See p. 1.)

RECLAMATION'S REPORT OF UNNEEDED LAND

In response to Executive Order 12348, in January 1983 Reclamation reported to Interior that it had identified about 1.3 million acres of unneeded land (1,275,000 acres of public domain land and 39,000 acres of acquired land). In July 1983 Interior determined that 33,477 acres of this land were no longer needed by the federal government and reported this to the Property Review Board as excess land. Interior had not decided on the disposition of the remaining land included in Reclamation's 1983 report.

ADDITIONAL UNNEEDED LAND IDENTIFIED

To determine if Reclamation's list of unneeded land was complete, GAO visited seven water projects which contain about 1.3 million acres of federal land. GAO reviewed 784,000 acres of this land and identified about 472,600 acres of unneeded land that had not been reported by Reclamation.

Reclamation had not reported this unneeded land in 1983 because (1) it may need some of the land in the future, (2) its Federal Land Policy and Management Act reviews of public domain land, which must be completed by 1991, had not been completed, (3) the land was generating revenues from agricultural or grazing leases, or (4) its annual real property reviews had not looked at land on a parcel-by-parcel basis.

For example, GAO reviewed the uses being made of 464,687 acres of public domain land at the All American Canal Project in California. With the concurrence of project officials, GAO identified 361,050 acres of this land as not

currently needed by the project. Reclamation's Federal Land Policy and Management Act review had tentatively identified 73,335 acres of this land as unneeded. The other 287,715 acres were identified for possible future use. However, the project manager said that it was unlikely that this land would be put to use within the next 3 years. According to Reclamation's land disposal criteria, land not needed within the next 3 years could have been identified for disposal.

In addition, GAO identified 1,000 acres of acquired land at the Orland Project in California which project officials agreed were not needed for the project. They said that this land was not identified because their reviews had initially concentrated on public domain land in order to meet the 1991 deadline in the Federal Land Policy and Management Act. (See pp. 11 to 13.)

Further, about 12,000 of the 472,600 acres GAO identified as unneeded were being leased at projects GAO reviewed. The estimated market values of most of the 12,000 acres, which were realizing about $43,500 in lease revenues, ranged from $100 per acre to $1,000 per acre, with one 75-acre parcel valued at $3 million to $4.5 million, or $40,000 to $60,000 per acre. This 75-acre parcel was being leased for livestock grazing for $1,225 annually. (See pp. 13 to 16.)

Project officials told GAO that they were reluctant to consider leased land as unneeded because it generates income and requires minimal management. However, Reclamation headquarters officials told GAO that land which is generating revenue from leases but which is not needed for project purposes should have been identified as unneeded. (See p. 14.)

Recognizing that it does not have adequate and complete land use information, Reclamation has implemented a continuous land-use inventory and is currently bringing on-line a new automated data processing system designed to improve Reclamation's management of its real property assets. GAO believes that if properly implemented, this system could assist Reclamation in developing a comprehensive and accurate inventory of land no longer needed for project purposes. (See p. 17.)

SOME UNNEEDED RECLAMATION LAND MAY NOT BE SOLD

Although Reclamation may identify land as unneeded for its purposes, GAO found that some of it may not be sold because it is in remote, arid locations and, in some instances, other federal agencies may need the land for their purposes.

Some unneeded Reclamation land is already being used by other federal agencies that probably would want the land if Reclamation decided to dispose of it. For example, at two Reclamation projects, the military uses 115,000 acres of public domain land for an airfield, parachute drops, practice bombings, and other training. Reclamation's regional realty specialist told GAO that the two military services involved were contacted in an attempt to formally transfer this land. The region, however, was retaining the land in its inventory pending a final response from the services. However, the Federal Land Policy and Management Act regulations require that this type of unneeded land in Reclamation's inventory be transferred to BLM for disposition. (See pp. 21 and 22.)

COLUMBIA BASIN PROJECT IRRIGATION DISTRICTS COULD PROFIT FROM SALE OF SETTLEMENT LAND

When water projects are completed, irrigation districts,[3] municipal and industrial water users, and power users are generally required to repay their share of project costs in installments over periods of 40 to 50 years. Under laws establishing various Reclamation projects, the proceeds from selling unneeded land obtained for project construction frequently are used to reduce the water and power users' repayment obligations.

The Columbia Basin Project includes land which Reclamation acquired adjacent to the water

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[3]Special governmental districts established under state law which contract with the Secretary of the Interior for irrigation water.

project to be sold or leased to families for farming and for town sites (settlement land). This settlement land was in addition to the land acquired for the project. According to Reclamation, its cost had not been included as part of the financial repayment obligation of the three irrigation districts involved in the project because the land was not needed to develop the water resources. Reclamation's Columbia Basin Repayment Statement as of September 30, 1984, shows settlement land costs and revenues were kept separate from the irrigation districts' construction repayment obligations.

About half of this settlement land is under agricultural or grazing leases which annually generate about $33,000. Although project officials told GAO that no land has been sold for settlement purposes since 1966, some settlement lands have been sold since that date because they were unneeded. Reclamation project officials currently estimate that revenues deposited into a separate Columbia Basin land development account as required will total Reclamation's cost to acquire the land plus interest in 7 to 10 years. Although Reclamation concluded that the irrigation districts assumed no liability for this settlement land, they could, under legislation authorizing the project in 1943, receive a $39 million reduction in their project repayment obligation if the remaining 73,000 acres of settlement land identified by Reclamation as unneeded is sold.

The rationale for crediting these surplus revenues in the settlement account to the irrigation districts is not explicitly stated in congressional hearings or other legislative history preceding the 1943 act. However, an Interior field solicitor's memorandum in 1982 referred to this credit as a "statutory gratuity." The memorandum states that land values have increased considerably since 1943, creating potential sales revenues exceeding the cost of the settlement land. After further study, in 1984 the field solicitor determined that the irrigation districts acquired a vested right to compensation under the 1943 act. However, GAO does not believe that the districts acquired a vested right to future surplus revenues from unsold land but rather

they have a contingent expectation interest in a future statutory gratuity.

For the federal government to receive these future sale revenues, the Columbia Basin Project Act of 1943 would have to be amended to preclude using them to reduce the irrigation districts' debt. GAO believes that Reclamation should consider whether the federal government's interests in these future sale revenues outweigh the irrigation districts' asserted contractual, reliance, and equitable interests, and refrain from selling further settlement land until this matter has been decided. (See pp. 27 to 34.)

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

The Secretary of the Interior should direct the Commissioner, Bureau of Reclamation, to:

--Transfer any unneeded public domain land used or needed by other federal agencies to BLM for disposition.

--Consider whether interests of the federal government that would be advanced by amending the Columbia Basin Project Act of 1943 to recover future surplus settlement land sale revenues for the government rather than crediting them to the repayment obligations of the project's three irrigation districts outweigh the interests of the districts. Should it be determined that the government's interests are paramount, legislation should be submitted to the Congress specifying that future surplus revenues from settlement land sales shall be credited to the federal government.

--Refrain from selling settlement land at the Columbia Basin Project until consideration of the proper disposition of future surplus settlement land sale revenues has been completed. (See p. 34.)

AGENCY AND IRRIGATION DISTRICTS' COMMENTS AND GAO's EVALUATION

The Department of the Interior said that generally the report was complete and reasonable in its recommendations, and Interior is determining the best method of accomplishing

the recommendations and correcting the problems discussed. The Department, however, said that the work and findings in the report warranted four additional recommendations to supplement those presented by GAO. Although not the focus of GAO's review, two recommendations suggested by the Department for greater headquarters oversight appear to have merit and could be administratively implemented by the Department. A third recommendation dealing with increased staffing and funds goes beyond the scope of GAO's work. The fourth recommendation on transferring unneeded public domain land to the Bureau of Land Management is essentially the same as a GAO recommendation. (See pp. 35 and 36.)

Some comments from Interior provided information that was useful for making technical corrections and updating the report to recognize progress already made by Reclamation in taking corrective actions to improve its land management program.

All three Columbia Basin Project irrigation districts disagreed that the Columbia Basin Project Act should be amended to provide that the federal government rather than the irrigation districts receive future surplus settlement land sale revenues. They said that the act was clear in its intent that such revenues be credited to the construction repayment obligations of the irrigation districts. GAO revised its recommendations in view of the concerns of the irrigation districts to ensure that the interests of the districts are fully considered before a legislative change is proposed. GAO also discusses other comments of the three irrigation districts. (See pp. 36 to 39 and apps. V, VI, and VII.)

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ABBREVIATIONS

BLM	Bureau of Land Management
FLPMA	Federal Land Policy and Management Act
GAO	General Accounting Office
GSA	General Services Administration

CHAPTER 1

INTRODUCTION

The federal government owns about 730 million acres of land, or about one-third of the United States land area. Federal laws and regulations require federal agencies to identify unneeded surplus lands for possible disposal. On February 25, 1982, the President signed Executive Order 12348 which required federal agencies, within 60 days of the date of the order, to report real property which was not being used, was underused, or was not being put to optimum use. The order also established a Property Review Board in the Executive Office of the President. According to the Board, the intent of the executive order was to generate revenues to reduce the national debt. Other anticipated benefits were to achieve optimum uses of unneeded land and to reduce management costs.

The Chairman, Senate Committee on Energy and Natural Resources, and the Chairman of that Committee's Subcommittee on Public Lands and Reserved Water, expressing concern about how the executive order was being implemented, asked us on January 19 and 18, 1983, respectively, to review how the Bureau of Land Management (BLM) and Bureau of Reclamation, Department of the Interior; the Forest Service, Department of Agriculture; and the Corps of Engineers, Department of the Army, identify and dispose of unneeded federal land. As agreed with the Chairmen's offices, we will issue separate reports on each agency. This report discusses how the Bureau of Reclamation identifies and disposes of unneeded land.

FEDERAL LAND OWNERSHIP

Federally owned land includes national parks, forests, and wildlife refuges; defense installations; rangelands, grasslands, and recreation areas; and land around dams and irrigation reservoirs. The four agencies whose programs we reviewed have jurisdiction over about 546 million acres, or about 75 percent, of all federally owned land. The major land-managing agencies and the amount of federally owned land, by agency, are shown in the table on the following page.

Department/agency	Federally owned acres managed		Percent of total	
	Agency	Dept.	Agency	Dept.
	(000 omitted)			
Interior				
Bureau of Land Management	341,059		46.7	
Fish and Wildlife Service	84,907		11.6	
National Park Service	77,286		10.6	
Bureau of Reclamation	4,214[a]		0.6	
Other Interior agencies	3,033	510,499	0.4	69.9
Agriculture				
Forest Service	192,075		26.3	
Other Agriculture agencies	397	192,472	0.1	26.4
Defense				
Corps of Engineers	8,544		1.2	
Other Defense agencies	14,334	22,878	2.0	3.2
Other federal departments and agencies		3,972		0.5
Total		729,821		100.0

[a]According to Reclamation officials, Reclamation manages about 6.6 million acres, some of which is also managed by other agencies. For example, some Reclamation projects are located in national forests. BLM's 1983 Public Land Statistics lists the land under only one agency to avoid duplicate reporting of federal land.

Source: BLM, Table 9, Public Land Statistics 1983.

RECLAMATION'S MISSION AND ORGANIZATION

The Bureau of Reclamation was established after the passage of the Reclamation Reform Act of 1902 (43 U.S.C. 391 et seq.) to reclaim arid and semiarid western lands for agricultural uses. Early reclamation projects were small, single-purpose irrigation facilities that seldom cost more than a few million dollars to build. Reclamation's purpose has expanded over the years to building and operating multipurpose water projects that, among other things, supply municipal and industrial water and hydroelectric power and provide flood control and recreation. Although the project construction costs are largely financed by the federal government, project beneficiaries--irrigation districts, municipal and industrial water users, and power users--are generally required to repay the federal costs in installments over periods of 40 to 50 years.

As of January 1984, Reclamation had 220 operating water projects with 250 reservoirs and more than 7,400 miles of canals located in 17 western states. To carry out its mission, Reclamation manages about 6.6 million acres of withdrawn public domain land[1] and acquired land.[2] (See app. I for a state-by-state breakout of land holdings.)

The Commissioner of Reclamation, appointed by the President, is responsible for accomplishing the Bureau's mission and reports to the Assistant Secretary of the Interior for Water and Science. Reclamation has seven regional offices, each headed by a regional director. Reclamation's projects are primarily managed by its project offices, but there are exceptions, such as the Central Valley Project in California which is managed by project superintendents at four field offices.

RECLAMATION'S PROGRAM TO IDENTIFY UNNEEDED LAND

Beginning with the passage of the Reclamation Act of 1902, the Bureau of Reclamation has been charged with identifying its unneeded land.[3] The act directed Reclamation to ". . . restore to public entry any of the lands so withdrawn when . . . such lands are not required for the purposes of this Act . . . ." Reclamation's unneeded lands are currently being identified primarily through annual real property reviews and public domain land reviews.

The Federal Property and Administrative Services Act of 1949 (Public Law 81-152), Interior's real property management regulations, and Reclamation's land management instructions specify annual reviews of real property to identify land holdings in excess of Reclamation's project needs. The purpose of

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[1]Public domain land is generally land that the federal government obtained through various cessions, treaties, and purchases from other sovereigns as the country expanded westward in the 19th century. Most of the 670 million acres of public domain land is in the West and is managed by BLM.

[2]Lands which were obtained by the federal government through purchase, condemnation, gift, or exchange.

[3]Lands not required for agency needs and the discharge of its responsibilities. For Reclamation, this would include developing water resources for irrigation, municipal and industrial use, energy production, water quality control, flood control, fish and wildlife enhancement, and outdoor recreation.

these annual reviews is to promote the utilization or disposal of real property which is not being put to its maximum utilization which would include privately and publicly obtained lands. Reclamation is required to conduct an annual review of its property holdings to determine whether any portion of its property is not utilized, is underutilized, or is not being put to optimum use. Property determined to be excess to Reclamation's needs is required to be reported to the General Services Administration (GSA) or, in the case of certain withdrawn lands from the public domain, to GSA and BLM. (See app. II for Reclamation's criteria for performing its annual reviews.)

The Federal Land Policy and Management Act (FLPMA) of 1976 (Public Law 94-579) requires the Secretary of the Interior to determine by 1991 whether federal agencies still need certain public domain land they have withdrawn for their various missions. To comply with this requirement, Reclamation is reviewing the public domain land it manages.

Executive Order 12348 requires executive agencies to periodically review their real property holdings and conduct surveys of such property in accordance with standards and procedures determined by the GSA Administrator. Within 60 days of the order, the head of each executive agency was to report to the GSA Administrator and the Property Review Board on the agency's real property holdings which, in the agency head's judgment, were not used, were underused, or were not being put to optimum use.

In response to Executive Order 12348, Interior established an Asset Management Program which required Reclamation (and other Interior agencies) to immediately initiate a review of its real property holdings. However, in July 1983, the Secretary of the Interior terminated the Asset Management Program after the Property Review Board agreed that Interior's ongoing land management and disposal programs and activities were consistent with Executive Order 12348.

DISPOSITION OF RECLAMATION LAND BY BLM AND GSA

When Reclamation identifies unneeded, withdrawn public domain lands, it prepares a request to BLM to revoke the withdrawal which Reclamation holds. BLM decides if the lands are suitable for return to the public domain. If the lands are suitable for return to the public domain, BLM prepares a Public Land Order which is signed by the Assistant Secretary, Land and Minerals Management, and published in the Federal Register completing the revocation action. If the lands are not suitable for return to the public domain, BLM advises Reclamation to report the lands to GSA for disposal.

When acquired lands are determined to be unneeded, Reclamation usually turns them over to GSA for disposal. Before GSA can sell unneeded public domain or acquired lands, however, the land has to be declared surplus to other federal agencies' needs. If, after 30 days, no other federal agency wants the land, GSA can sell it or, in some cases, make it available to state and local governments.

A summary of Reclamation lands transferred to GSA and to BLM during fiscal years 1978-83 is shown below.

Transfer of Unneeded Reclamation Land to GSA and BLM, Fiscal Years 1978-83

Fiscal year	Acres transferred to GSA	Acres transferred to BLM
1978	76	897
1979	23	19,979
1980	7	39,497
1981	21	172,965
1982	58	139,407
1983	704	1,120,434
Total	889	1,493,179

According to Reclamation, during the first three quarters of fiscal year 1984, it disposed of an additional 948,684 acres.

RECLAMATION'S DIRECT LAND SALE AUTHORITY

Reclamation has limited direct land sale authority as follows:

--Small or isolated tracts of withdrawn public lands in a project area can be sold by Reclamation to resident farmers subject to certain acreage limitations. (Act of March 31, 1950, Public Law 81-469.)

--Tracts previously withdrawn for town sites can be sold by Reclamation as town-site lots. (Act of April 16, 1906, Public Law 59-103; and Act of June 27, 1906, Public Law 59-308.)

--Tracts of vacant, unproductive public land on projects can also be sold to resident farmers subject to certain limitations. (Act of June 6, 1930, Public Law 71-309.)

--Tracts of unneeded acquired or withdrawn land on the Columbia Basin Project in Washington and the Gila Project in Arizona can be sold by Reclamation to farmers or settlers to be used to establish town sites when in furtherance of project development. (Columbia Basin Project Act of 1943, Public Law 78-8; and Gila Project Act of 1947, Public Law 80-272.)

--Small tracts with fair market values under $1,000 can also be sold. (Federal Property and Administrative Services Act of 1949, Public Law 81-152.)

In addition, Reclamation can sell, under certain circumstances, unneeded project lands not covered by the above authorities if BLM or GSA delegates the authority to Reclamation.

Under its direct sale authority, Reclamation sold 674 acres of unneeded land in fiscal year 1978; 1,192 acres in 1979; 958 acres in 1980; 1,752 acres in 1981; 3,465 acres in 1982; and 0 acres in 1983. In fiscal year 1984, Reclamation offered about 660 acres for sale under its direct sale authority; however, no purchase offers were received.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Chairman, Senate Committee on Energy and Natural Resources, and the Chairman of that Committee's Subcommittee on Public Lands and Reserved Water asked us to respond to the following questions as part of our review of unused and underutilized land:

--Are the federal land-managing agencies using their land-use planning process in identifying unneeded land?

--Was the list of unneeded land sent by the federal land-managing agencies to the Property Review Board complete?

--What requirements have to be met before federal agencies can sell land directly?

--What problems have the land-managing agencies experienced in directly selling land?

The Committee Chairman also asked about the effect that the disposal of unneeded land would have on present users, lessees, and permittees on public lands.

To address these questions at Reclamation, we selected for review seven projects in three of Reclamation's seven regions as follows:

Pacific Northwest Region
- Columbia Basin Project, Washington
- Owyhee Project, Oregon and Idaho

Mid-Pacific Region
- Klamath Project, California and Oregon
- Orland Project, California
- American River Division of Central Valley Project, California

Lower Colorado Region
- All American Canal System portion of the Boulder Canyon Project, Arizona and California
- Gila Project, Arizona

The regions and projects, which were randomly selected, contain about 3.9 million (60 percent) and 1.3 million (20 percent) acres, respectively, of the 6.6 million acres of Reclamation-managed land.

We selected our Reclamation regions and projects to provide coverage of

--land categorized as "idle not used," to evaluate how Reclamation identifies and reports unneeded land;

--grazing or agricultural leases on Reclamation land, to assess the impact of land disposals on these leases;

--both large and small projects;

--various categories of land which Reclamation manages, such as that used for recreation, wildlife habitat, and project construction; and

--land sale actions, to obtain information on Reclamation's experiences with disposals.

Reclamation projects predominantly located in national forests were excluded because most of the land would have been part of the National Forest System. The Forest Service's program is the subject of another report (GAO/RCED-85-16, Nov. 6, 1984).

The map which follows shows the projects' locations. We obtained Reclamation's concurrence that these regions and projects provide a good basis for examining the agency's program to identify unneeded land.

Location of Reclamation Projects Examined

Source: Bureau of Reclamation.

To determine the process used and requirements which must be met by Reclamation to identify and dispose of, either by direct sale or transfer to GSA or BLM, its unneeded land, we interviewed Reclamation officials at headquarters, regional

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offices, and project offices and examined land identification and disposal records and reports.

To determine if Reclamation was identifying and reporting all of its unneeded land, we visited large and small tracts representing various categories of land which Reclamation project officials agreed were representative of the projects' lands. We compared the use of each tract with authorized project purposes and if the land did not appear to be needed for specific project purposes, for fish and wildlife enhancement, or for recreational purposes, we discussed this with project officials most knowledgeable about how the land was being used. Appendix III shows the acreage we examined on each project.

To determine the marketability of the unneeded land and the effect its sale might have on current beneficiaries, we contacted some current leaseholders, local realtors, land appraisers, and county assessors. We also obtained the views of officials of three irrigation districts on the Columbia Basin Irrigation Project concerning the way revenues from the sale of certain land at the project were to be distributed. In addition, we contacted a representative of Interior's Office of the Inspector General and determined that some work had been done in the past but no work was underway relating to identifying or disposing of unneeded land.

Some of the public domain land managed by Reclamation has not been surveyed. Therefore, some of the acreage amounts used in this report are based on Reclamation estimates and may not be precise.

We made our review in accordance with generally accepted government auditing standards. Our fieldwork was performed during January through September 1983, and supplemental information was obtained through December 1984.

CHAPTER 2

IDENTIFYING UNNEEDED LAND

In January 1983 Reclamation reported to the Department of the Interior that it had 1.3 million acres of land which were not needed for its primary mission of developing water resources for irrigation, municipal and industrial use, energy production, water quality control, flood control, fish and wildlife enhancement, or outdoor public recreation.

At the seven projects we visited, we identified an additional 472,584 acres which Reclamation had not identified as unneeded but which project officials agreed were not being used for project purposes. Reclamation had not reported this unneeded land in 1983 because the land may be developed for recreational purposes sometime in the future, its FLPMA reviews had not been completed, the land was generating revenues from farming or grazing leases, or its annual real property reviews were not site-specific and failed to identify much unneeded land.

Reclamation recognized that it needs a more complete and accurate inventory of lands at its water projects and is completing implementation of a new land-use inventory and real property system to improve management of all of Reclamation's real property assets. We believe that if properly implemented, this system could identify land no longer needed for project purposes.

RECLAMATION REPORT OF UNNEEDED LAND

In a January 1983 report, Reclamation listed about 1.3 million acres of land as unneeded for project purposes (1,275,000 acres of public domain land and 39,000 acres of acquired land). The list was compiled by its Division of Water and Land Technical Services, Denver Engineering and Research Center, and was developed by consolidating each of Reclamation's seven regional offices' fiscal year 1982 annual reports of unneeded real property.

About 1.2 million acres of the land on the list had been identified as unneeded prior to fiscal year 1982 but was still in Reclamation's custody pending release to BLM or other disposition. About 109,000 acres were identified as unneeded during fiscal year 1982. In July 1983 Interior determined that 31 Reclamation parcels totaling 33,477 acres were no longer needed by the federal government and reported this to the Property Review Board as excess land. The remaining land is primarily unimproved public domain land which Reclamation reports to BLM for disposition rather than to the Board.

ADDITIONAL UNNEEDED LAND IDENTIFIED

At the seven projects we visited, we identified 472,584 acres, including 12,184 acres under farming, grazing, and recreational cabin leases, that were not being used for project purposes and were not included in Reclamation's list of unneeded land. This land was not reported by Reclamation because its annual real property reviews did not look at the land on a parcel-by-parcel basis to determine whether it was needed for project purposes, its FLPMA reviews had not been completed, Reclamation may develop some of the land for recreational purposes sometime in the future, or the land was generating revenues from farming or grazing leases. The amount of unneeded land at each of the projects was as follows:

Project	Unreported unneeded acres		
	Public domain	Acquired	Total
All American Canal	361,050	6,240	367,290
Columbia Basin[a]	12,505	50,018	62,523
Klamath	16,121	1,690	17,811
Gila	4,630	7,894	12,524
Owyhee	8,200	514	8,714
Orland	260	1,000	1,260
American River Division	2,387	75	2,462
Total	405,153	67,431	472,584

[a]Breakout of unneeded land on this project between acquired private land and withdrawn public domain land is an estimate based on the project's lands we reviewed--80 percent acquired land and 20 percent withdrawn land.

We identified land as unneeded if (1) it was not being used for water and power project purposes, fish and wildlife enhancement, or recreation and (2) project officials concurred that the land was not currently being used for project purposes, nor was it planned for use within the next 3 years. Reclamation's written disposal criteria for project lands provide that land which will not be used within 3 years should be considered for disposal, particularly if Reclamation can reacquire the land at a later time.

Public domain land

Of the 4.6 million acres of Reclamation-managed public domain land, 913,000 acres are at the seven projects we reviewed. We reviewed 602,000 of the 913,000 acres and identified 405,153 acres that were not being used for project purposes. About 361,050 acres, or 89 percent, of the 405,153 acres were at the All American Canal Project. The 405,153 acres included 5,000 acres of leased lands.

As of January 1983 (the most recent Reclamation reporting of unneeded land to Interior at the time of our fieldwork), officials at the projects we visited had completed less than 10 percent of their scheduled reviews of unneeded public domain land as required by FLPMA. These reviews, which must be completed by 1991, were scheduled to be completed after our visits and could result in Reclamation identifying some of the unneeded land we identified. The following examples show the status of Reclamation's review of public domain land at three projects containing varying amounts of public domain land which we identified as unneeded.

All American Canal Project

The All American Canal Project in southeastern California and southwestern Arizona contains about 506,000 acres. We reviewed the uses being made of the 471,421 acres in California which includes 464,687 acres of public domain land. With the concurrence of project officials, we identified 361,050 acres of public domain land not currently needed by the project. At the time of our visit to the project in April 1983, project staff were in the process of performing their FLPMA review of project lands in California and had tentatively identified 73,335 unneeded acres. According to the project manager, the other 287,715 acres we identified as unneeded were tentatively identified for retention in the FLPMA review because the land may be used sometime in the future.

However, project officials agreed that it was unlikely that this land would be put to use within the next 3 years. The project manager concurred that under Reclamation's own written disposal criteria, the 287,715 acres could have been identified as unneeded during the FLPMA review and reported to BLM.

Owyhee Project

The Owyhee Project in southeastern Oregon and southwestern Idaho contains 36,553 acres of withdrawn public domain land. Most of the land, 28,634 acres, is located in Oregon. The project's staff, which had completed their FLPMA review of project land in Idaho, had not yet started reviewing the 28,634 acres of public domain land in Oregon at the time of our visit in June 1983 and were not scheduled to do the review until 1987. We identified 5,882 acres of public domain land in Oregon that project officials agreed were excess to the project's needs.

Klamath Project

The Klamath Project located in northern California and southern Oregon contains 140,478 acres, of which about 123,000 acres are public domain land. At the time of our visit in May 1983, project staff had reviewed the need to retain 10,195 acres of public domain land and had recommended that 9,406 acres

be returned to BLM. We questioned whether another 16,121 acres of public domain land were needed for project purposes. Klamath Project officials concurred that the land was not needed and said that it had not been reported because land at the project was being reviewed in accordance with the FLPMA land review schedule and that the review should be completed in fiscal year 1985. They said that the land no longer needed for project purposes would be reported as unneeded once the review was completed.

Acquired land

The seven projects we visited contained about 416,000 of Reclamation's 2 million acres of acquired land. We reviewed 182,000 acres of such land and identified, with project officials' concurrence, about 67,431 acres as unneeded, including 7,119 acres of leased land. For example, 6,953 acres at the 7,428-acre Orland Project in northern California were acquired over 50 years ago from private owners. In March 1983 we identified 1,000 of these acquired acres that were not being used for project purposes and that project officials said were no longer needed. Project staff had concentrated their efforts on reviewing the project's 475 acres of public domain land in accordance with FLPMA.

Leased land

In some cases, leased land does not serve authorized Reclamation project purposes and is not needed to provide a protective buffer for project facilities, making such land a prime candidate for potential sale. We identified Reclamation land leased for farming and grazing and land leased for cabin sites which, according to project staff, realtors, and county officials, had value in the marketplace. Nationwide, Reclamation reported about 288,000 acres under farming or grazing lease in its fiscal year 1981 report, which was the latest published information. This leased acreage generated revenues of about $2.3 million. Of this total, $1.632 million in annual revenues was produced by the Klamath Project from leases on 22,000 acres legislatively required to be kept under lease to support adjacent migratory waterfowl refuges. Reclamation's remaining 266,000 acres of leased land gross about $628,000 annually.

We reviewed the need for 66,419 acres of land under farming or grazing leases at six projects (the seventh did not have any leased land). At five of the projects, we identified 12,119 acres, which were generating about $37,000 in lease revenue, that project officials agreed were unneeded. In addition, at one project another 65 acres of unneeded project land was being leased for about $6,500 for recreation cabin sites.

We determined the amount of unneeded leased acreage by reviewing lease files, visiting leased land at five projects, and obtaining Reclamation project officials' concurrence that the land was not needed for project purposes. Our estimates of unneeded leased land at these projects are summarized in the following table.

Project	Leased acres	Acres reviewed	
		Total	Unneeded
Columbia Basin	62,559	29,001	5,140[a]
Klamath	23,802	23,675	1,199
Owyhee	11,698	8,885	4,445
Orland	3,538	3,538	1,260
American River Division	1,202	1,202	75
Gila	82	28	0
All American Canal	0	0	0
Total	102,881	66,419	12,119[b]

[a]Project lands staff did not want to include an additional 21,725 acres as unneeded because for 13,513 acres an environmental assessment may recommend that the land be added to existing park and wildlife areas. Although the 13,513 acres were not needed for Reclamation's purposes, the staff were uncertain where to categorize the land until the environmental assessment was completed. The other 8,212 acres has potential for use in land exchanges associated with project expansion which is under consideration.

[b]Does not include 65 acres leased for recreation cabin sites.

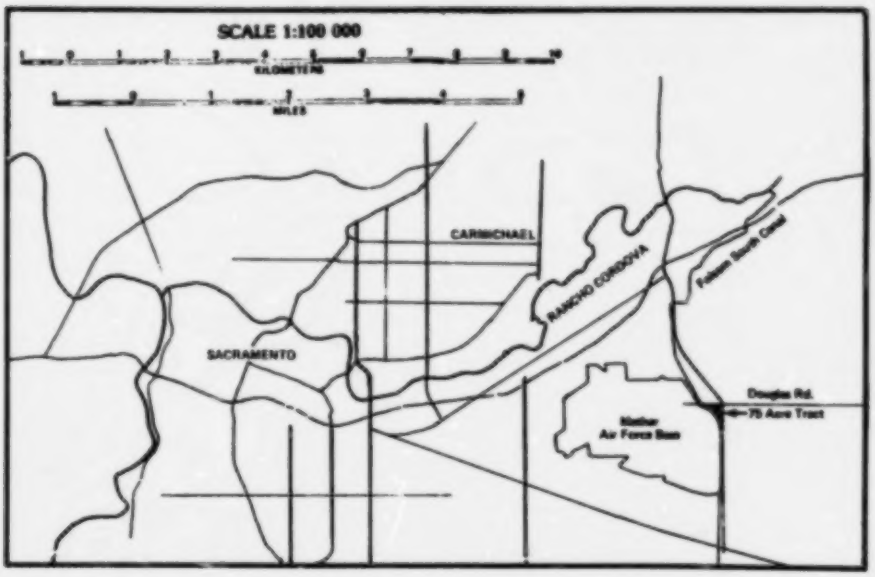
Project officials told us that they were reluctant to consider land which was being leased as unneeded because it generated income for their projects and required minimal management. The Chief, Land Resources Management Branch, at Reclamation headquarters told us that Reclamation's general policy is to dispose of all land which is not used or planned for use for a specific project purpose. The Branch Chief told us that land which is generating revenue from leases but which is not needed for project purposes should be identified as unneeded by project officials. We agree that such lands should be identified and considered for release.

According to the project staff, realtors, and/or county assessors we talked with, the approximate market value of the unneeded leased land generally ranged from $100 to $1,000 per acre. An exception was a 75-acre tract at the American River Division that had an estimated value of from $40,000 to $60,000 an acre. (See app. III.) The following examples illustrate the potential for disposing of Reclamation's unneeded project land that is under lease.

American River Division, Central Valley Project

The American River Division is in northern California near Sacramento. We questioned the need for keeping a 75-acre parcel of acquired land leased to a private user for grazing at $1,225 per year. The land, which was used as an equipment storage area during construction of the Folsom South Canal, is about 15 miles from downtown Sacramento at a major road junction. Project officials told us that they had not reviewed the land because it was generating income and may be needed sometime in the future for equipment storage. After we questioned the need for the parcel, project officials began reassessing the need to retain the land. According to the officials, they expected to identify most of the land for disposal except for a small buffer zone for the canal on the west edge of the parcel. According to the county appraiser, the highest and best use for the parcel is for private residential or commercial use. The county appraiser estimated its worth to be between $3 million and $4.5 million based on a market value of $40,000 to $60,000 per acre. (A map pointing out the 75-acre parcel is shown below and a photograph of a portion of the parcel is shown on page 16.)

American River Division, Central Valley Project
75 Acres Under Grazing Lease



Source: Bureau of Land Management.

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A portion of the 75-acre parcel
on the Central Valley Project.

Orland Project

At the Orland Project in northern California, we questioned the need to keep about 1,260 of 3,538 acres leased by Reclamation to local ranchers for grazing. (We did not question the remaining 2,278 acres because they are needed to protect reservoir facilities or are targeted for future public recreation uses.) The leased lands are in the vicinity of two reservoirs and were generating annual lease revenues averaging about $9 per acre. Project officials had identified 80 of the 1,260 acres as unneeded during a September 1982 review of public domain land completed to comply with FLPMA. When we questioned Reclamation's need for all 1,260 acres, the project official responsible for land use reviews concurred that the other 1,180 acres also were not needed by the project. Local zoning restricted the 1,260 acres to agricultural uses. According to local realtors and county appraisers, agricultural land in the area was selling for about $300 per acre. Three of the project's lessees told us that they were interested in purchasing the lands they leased if the lands were offered for sale.

Owyhee Project cabin sites

The Owyhee Project in Oregon leased 73 cabin sites. Of these, 65 sites of about 1 acre each are in two areas that Reclamation has set aside for such leases. The other eight leases are on land which Reclamation does not consider suitable for cabin-site use, and according to project officials, the

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cabins will eventually be removed. Project officials told us that the leased land could be sold without adversely affecting the project. They told us that the annual lease revenues of $100 per cabin site and the minimal lease management required are the only reasons for retaining the 65 cabin sites. The county appraiser estimated the market value of these cabin sites at $3,700 per acre.

Annual reviews have not identified all unneeded lands

Reclamation's land management instructions required that real property holdings be reviewed annually by September 30 to identify unneeded lands for disposal or transfer to the government agencies needing them. The land management instructions directed each regional office to review and consolidate responses of their project offices into an annual report.

According to project officials at the seven projects we visited, annual real property reviews for the seven projects were made as time and staffing allowed, and they did not look at the land on a parcel-by-parcel basis to determine whether it was needed for project purposes. The officials said that, generally, the lands they reported as unneeded were those that surfaced during the year as a result of (1) some outside entity such as a local landowner, city, or state expressing an interest in a parcel of land or (2) the FLPMA land reviews required to be completed by 1991.

As part of the annual real property review process for Reclamation's fiscal year 1982 real property reviews, 15 specific questions addressing why land needed to be retained (see app. II) were to be answered. The questions, with some minor revisions, are contained in the Federal Property Management Regulations. Some questions required only yes or no responses while others also required a narrative explanation. Reclamation's Mid-Pacific Region submitted a one-page response for each of its 12 projects.

We do not believe that the responses provided sufficient information to assure that an adequate attempt was made to identify all unneeded land at water projects. For example, one question required a narrative response as to (1) whether local zoning would provide sufficient protection for necessary buffer zones if a portion of the property was released and (2) what the effect would be on management operations if a portion of the property was disposed of. (See question 5, app. II.) The Mid-Pacific Region responded that disposing of the land could be detrimental to project purposes without specifying how the project would be detrimentally affected and how project facilities would be adversely impacted.

Interior's Office of Audit and Investigation reported similar concerns about Reclamation's annual real property review program in July 1978. The Office of Audit and Investigation report concluded that most annual reviews that had been done amounted to little more than updating prior year reports to reflect recent acquisition and disposal actions. The Office of Audit and Investigation recommended that Reclamation establish agencywide real property review procedures and make comprehensive reviews of its real property.

Reclamation officials recognized that information on uses being made of its project lands needed to be more comprehensive and current. As a result of the above report, in 1979 Reclamation instituted an extensive land-use inventory to supplement review procedures specified by Federal Property Management Regulations, Interior Property Management Regulations, and Reclamation Instructions.

In November 1981 a Reclamation task force recommended preparing an intensive 5-year cyclical inventory involving a critical examination of land uses on a parcel-by-parcel basis to determine whether Reclamation needed to keep the land. As part of its land-use review process, Reclamation is currently bringing on-line a new automated land and real property system, which will incorporate the task force recommendations and includes the inventory of land uses, land status, and land management records covering all Reclamation land, including leased land. Also included as part of developing the land-use inventory are utilization reviews of project land to identify all unneeded and underused lands.

CONCLUSIONS

We identified 472,584 acres of unneeded land at seven Reclamation projects which the Bureau had not identified in a January 1983 report on unneeded land. The information in the January 1983 report was obtained through annual real property reviews which did not include a parcel-by-parcel examination of project lands. Basically, the lands identified as unneeded during these reviews represented properties that surfaced when outside entities expressed an interest in acquiring or using the land, or as a result of completed FLPMA reviews. Some of the land we identified, however, may have been identified by Reclamation upon completion of its ongoing FLPMA reviews of public domain lands which must be completed by 1991.

Reclamation has recognized that its land management information base needs to be updated and that in the past it has not identified all unneeded project lands. Reclamation has been taking action to implement a land-use inventory and real property asset management improvements since issuance of an Interior

Office of Audit and Investigation report in 1978 and is currently bringing on-line an automated land-use inventory and real property system. The land-use inve tory system includes parcel-by-parcel land utilization reviews on a 5-year cycle. We believe that if properly implemented, this automated land-use inventory system could identify land no longer needed for Reclamation's mission.

AGENCY COMMENTS AND OUR EVALUATION

The Department of the Interior said that this report correctly identified a number of deficiencies in Reclamation's land management program, which should further assist Reclamation in managing the real property assets under its jurisdiction. (See app. IV.) Interior explained that land use and, accordingly, land needs are dynamic, and determinations concerning land use made at any point in time may become almost immediately obsolete. The Department, however, said that we should give greater recognition to corrective actions taken by Reclamation which realized several years before our review that its land management program was deficient in a number of areas. We added information to update and clarify actions taken by Reclamation especially with regard to the development of its land-use inventory and real property system, which we believe could, if properly implemented, identify land no longer needed for Reclamation's mission.

CHAPTER 3

DISPOSING OF UNNEEDED LAND

Identifying Reclamation land as unneeded does not necessarily mean it will be sold. Some unneeded land is not marketable while other land is needed or being considered for use by other federal agencies.

When Reclamation sells land no longer needed for project purposes, water and power users benefit because the proceeds from such sales reduce the amount of capital construction costs, which include the costs of land, that users are required to repay to the federal government. If these sale proceeds are used to offset the repayments coming at the end of the 40 to 50 year repayment cycle, the federal government can use the money from the land sales for government purposes without having to borrow additional funds and pay related interest costs.

The Columbia Basin Project differs from many Reclamation irrigation projects because settlement lands[4] were purchased by the federal government in addition to and separate from land acquired for the project's construction. Although it appears the irrigation districts did not participate financially in purchasing the settlement land, legislation authorizing the project requires sale revenues over and above the government's cost for the settlement lands plus interest be used to reduce the districts' project construction repayment obligation. Land values in the basin have increased considerably in the 40 years since the land was acquired. The original cost of the settlement land has been recouped and any revenues from future sales could be used to reduce the districts' repayment obligation. As a result, the construction cost accounts of irrigation districts on the Columbia Basin Project could receive credits of about $39 million from the sale of about 73,000 acres of unneeded settlement land at the project. Although Reclamation Pacific Northwest Region officials had considered a legislative amendment which would have recovered the future sale revenues for the government rather than the irrigation districts, the officials said that they reconsidered this position and they would most likely seek to apply the future sale revenues to the districts' later repayment obligations.

To obtain opinions of those who might be affected by the sale of Reclamation lands, we contacted farmers and ranchers who were leasing Reclamation land. Seven of nine lessees told us

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[4]Project lands that Reclamation purchased, in accordance with Public Law 78-8, for the permanent settlement of farm families rather than for the construction and protection of project facilities.

that they are generally not concerned about the possible sale of the land they lease because of their interest in purchasing the land. Also, we contacted three cabin-site lessees at one Reclamation project and two of them expressed concern that they might not be able to afford to purchase the land they now lease.

We also obtained the views of officials of the three irrigation districts on the Columbia Basin Project, who opposed any change in the way revenues from sales of the project's settlement lands are distributed.

SOME UNNEEDED RECLAMATION LAND MAY NOT BE SOLD

Even when Reclamation identifies land as unneeded, the land may not be sold, or it could take a long time to sell. The land may already be in use or it may be needed by other federal agencies for their programs and activities, or the land might be nonmarketable because it is isolated and without water.

Other agency interest in Reclamation land

Reclamation may need a considerable amount of time to sell or transfer land it has identified as unneeded either because other agencies are considering whether the land is needed for their purposes or because other agencies are already using the land. For example, on the Klamath and Owyhee projects, it took about 10 years for Reclamation to offer nine parcels of land for sale after it had identified the land as unneeded for project purposes. In both cases, the land was marketable, but considerable time was involved in obtaining BLM's concurrence that the land should be sold rather than returned to BLM's custody for retention in the federal estate. BLM was concerned about protecting possible historical, cultural, and archeological values on some of the land and also about possibly using some of the land for highway rest stops. The seven parcels of Klamath Project land consisting of 203 acres eventually sold in 1981-82 for a total of $208,214. At the Owyhee Project, two parcels consisting of 125 acres sold in 1978-79 for a total of $9,800.

Other Reclamation land is already being used by other federal agencies. For example, at the Gila and All American Canal Projects, the military is using 4,250 acres and 110,790 acres, respectively, for parachute ranges, bombing ranges, training ranges, and a military airfield. If Reclamation releases the land, it most likely will be transferred to the Department of Defense rather than sold.

The need for Reclamation to retain the land on the All American Canal Project was questioned by Interior's Office of Audit and Investigation in its July 1978 report. The report

recommended that Reclamation formally transfer these lands to the military agencies using them. According to Reclamation's Lower Colorado Region realty specialist, the military agencies had been contacted, but the Navy, which uses 102,640 acres, had asked Reclamation to retain the land until the Navy obtains congressional approval to take custody of the land. He also said that the Air Force continued to use the other 8,150 acres but had not responded to Reclamation concerning the land's transfer. As of June 1984, this matter had not been resolved.

We agree that Reclamation should dispose of land under its jurisdiction which is being used by military or other federal agencies and which is not needed for Reclamation's mission. Reclamation's disposing of the land will remove its responsibility for management of, accounting for, and reporting on land that other agencies are using.

Also, Reclamation's land at the All American Canal and the Owyhee projects is adjacent to large blocks of BLM lands and will, if released by Reclamation, likely be retained in the public domain by BLM. On the All American Canal Project, for example, about 506,000 acres of Reclamation land are within the California Desert Conservation Area managed by BLM. BLM has developed a long-range management plan for use of the 12.1 million acres of public land, including the Reclamation land, within the conservation area. Accordingly, the disposition of any land Reclamation releases in the conservation area will be subject to BLM's land-use plan.

Some of Reclamation's unneeded land may not be readily marketable

Some of Reclamation's lands that are unneeded are isolated and remote lands that have no access to water and, therefore, may not be readily marketable, as the following examples illustrate.

All American Canal Project

Some of Reclamation's 506,000 acres at the All American Canal Project are more than 50 miles from any project facility. The sale potential of Reclamation land, except for land adjacent to highways, near towns, or bordering irrigation district lands, depends on terrain and availability of water. Much of the All American Canal Project land will not have water unless improvements are made in the canal delivery system. The land in the photograph on page 23 is typical of the raw desert land on this project. Even if BLM were to decide to release some of this All American Canal land, according to Reclamation project officials and a local land appraiser, the land has marginal sale potential and a market value of only $100 to $200 per acre.

Typical raw desert land on
the All American Canal Project.

Gila Project

On the Gila Project, Reclamation has about 62,000 acres. Some of the land, as shown in the photograph on page 24, is raw desert land with sale potential similar to that on the All American Canal Project. Some parcels on the Gila Project are adjacent to an interstate highway near Yuma, Arizona, and may have commercial value; other parcels bordering the Wellton-Mohawk Irrigation District may have potential for growing jojoba (a shrub which produces seeds containing a valuable oil). The availability of water is again a controlling marketability factor. The average rainfall is about 3.5 inches a year. Land near the project has recently been sold at $500 to $600 per acre for growing jojoba; however, according to project officials, the potential for irrigating more land in the area is small.

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Typical raw desert land on the Gila Project.

Owyhee Project

On the Owyhee Project, Reclamation has about 41,800 acres, much of which is arid land located on extremely steep terrain, as shown in the photographs on pages 25 and 26. Project officials estimated the market value of unimproved grazing land in the area at $100 per acre due to the steepness of the terrain.

VIEWS OF LESSEES, REALTORS, AND COUNTY ASSESSORS ON SELLING RECLAMATION LANDS

To obtain local reaction to the possible sale of Reclamation lands, we contacted 12 of the 223 lessees of Reclamation lands for agricultural, grazing, or cabin-site uses on the Columbia Basin, Orland, and Owyhee Projects. Three (all at Owyhee) had recreation cabin-site leases and nine had agricultural or grazing leases.

We contacted only nine lessees with agricultural and grazing leases because the majority expressed similar reactions about the possible sale of Reclamation land. All but two of the agricultural and grazing lessees said that they were not concerned about the possible sale of the land they lease because they would be interested in acquiring the land. They said that the primary value of the land they lease is for agriculture or

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Eroding land below the Owyhee Reservoir.

Source: Bureau of Reclamation.

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grazing, and five of the seven told us that because their farms or ranches were on land adjacent to or near the project land, they would have an advantage over other potential buyers who might not have easy access to the land.

Two of the three lessees of cabin sites said that they were retired with limited income and were concerned that their sites' purchase prices might be greater than they could afford. They pointed out that they had increased the sites' value at their own expense by making improvements such as digging wells and planting trees. The third lessee said that he preferred to own the cabin site but that he was reluctant to improve the site since he had no assurance that his leasing arrangement would continue. According to him, most lessees would prefer to purchase their cabin sites if they could afford to do so.

Realtors, appraisers, and county assessors familiar with land at four of the projects we reviewed told us that buyers were interested in usable Reclamation land. For example, the two realtors who were familiar with the Orland Project lands told us that there were interested buyers but that they were offering less than sellers in the area were willing to accept for farm land. A local appraiser familiar with All American Canal and Gila Project lands told us that the demand was high for land with access to water but that there was little demand for raw desert land without water.

LAND SALES BENEFIT WATER AND POWER USERS AND THE GOVERNMENT

Water and power users benefit from unneeded land being sold because the proceeds from such sales frequently reduce their share of the capital construction costs due the federal government and thereby reduce the total amount of users' payments. The federal government benefits if the proceeds are used to offset the users' repayments at the end of the contract, generally lasting 40 to 50 years, rather than being used in place of current repayments. In this way, the federal government can use the money from the land sales for government purposes without having to borrow additional funds and pay related interest costs.

Reclamation law provides for proceeds from the sale of unneeded Reclamation project lands to be placed in the Reclamation Fund[5] as a credit to the project for which the land

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[5]A special fund established by the Reclamation Act of 1902 to provide construction funds for water projects from public land sales and water users' repayments.

was acquired or withdrawn.[6] This reduces the outstanding repayment obligation due the federal government from irrigation districts, municipal and industrial water users, and power users. No new funds are generated for the federal government because the land sale proceeds merely replace money that the water or power users would pay the federal government to repay project repayment obligations.

According to the Reclamation headquarters Branch Chief for Contracts and Repayment, repayment contracts between the federal government and water users may contain a provision which allows credits from the proceeds of land sales to be applied to the final installment(s) of the water users' repayment schedule. For example, if an irrigation district had a 50-year, $5-million annual payment schedule and unneeded land sold for $5 million, the $5 million would be used to shorten the payment schedule by eliminating the last yearly payment. The federal government benefits by receiving payment of the current annual installment owed, which saves interest costs because the Treasury has to borrow less funds to finance federal expenditures.

However, the Branch Chief for Contracts and Repayment also said that in other cases project repayment contracts do not contain such a provision. He further said that under present Reclamation policies, unless the repayment contracts provide otherwise, a credit reduces the current annual installment payment. In this case, the federal government does not receive any benefit from such credits. He said that although he does not know the exact number of projects where repayment contracts provide for applying credits for land sale proceeds to the final installments of the repayment obligation period, he estimated that most projects would have such repayment provisions.

The Branch Chief for Contracts and Repayment also said that the Department of the Interior's Solicitor has been asked to review the entire question of crediting of miscellaneous revenues to projects and beneficiary districts. This review may lead to a modification of current policies on crediting and disposing of such revenues.

IRRIGATION DISTRICTS COULD PROFIT FROM SALE OF SETTLEMENT LAND

At the Columbia Basin Project in Washington, three irrigation districts (East, South, and Quincy) may have their project construction repayment obligations due the government

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[6]The following legislation provides for crediting projects for proceeds from the sale of Reclamation lands: (a) Act of February 2, 1911, Public Law 61-338; (b) Act of May 20, 1920, Public Law 66-212; and (c) Act of March 31, 1950, Public Law 81-469.

reduced by up to $39 million from the sale of 72,730 acres of unneeded settlement land even though we could find no evidence that the districts had assumed--and, according to Reclamation, the districts did not assume--liability for purchase or sale of the land. The Columbia Basin Project differs from many Reclamation projects in that the purchase of settlement lands was funded by the federal government separately from the project's construction program and Reclamation's Columbia Basin Repayment Statement as of September 30, 1984, shows settlement land costs and revenues accounted for separately from the irrigation districts' construction repayment obligations.

The Columbia Basin Project Act of 1943 provided that purchase costs and revenues from leases and sales of settlement lands be accounted for in a separate Columbia Basin Land Development Account, and Reclamation indicated that the project's three irrigation districts have no liability in connection with the repayment of any deficits in the account. However, the act specifically provides that any surplus revenues in the account over and above the government's cost for the lands plus interest at the rate of 3 percent per year resulting from the sale or lease of settlement land be credited to the irrigation districts' construction repayment obligations.

The 72,730 acres of land were left over from the project's land settlement program. The purpose of the land settlement program was to prevent speculation in the sale of lands surrounding the Columbia Basin irrigation project. Section 4 of the 1943 act provides for the federal government to acquire tracts of land from private owners at appraised value and from the public domain. To assist in the permanent settlement and development of the land, the act authorizes the government to lease or resell the land so long as land sale contracts provide for the return of not less than the land's appraised value.

According to project officials, no land has been sold for settlement purposes under the Columbia Basin Land Settlement Program since 1956. However, some of the remaining settlement lands have been sold since that date because they were excess to project needs. Records we reviewed in June 1983 showed that the $15,636,159 that Reclamation had received through that date from selling and leasing settlement program lands reached the point at which all land acquisition costs, applicable interest, and land settlement program operating costs had been recovered. These acquisition costs included both the cost of purchasing private land and the fair market value at the time of withdrawal of land withdrawn from the public domain.

However, Reclamation regional office and project officials informed us in December 1984 that they had not included all costs that should have been charged to the settlement program

account. They estimated that the account had a $2,200,000 deficit and that they expect that annual net revenues of $200,000 to $300,000, primarily from installment payments from prior land sales and lease revenues, would liquidate the account in 7 to 10 years.

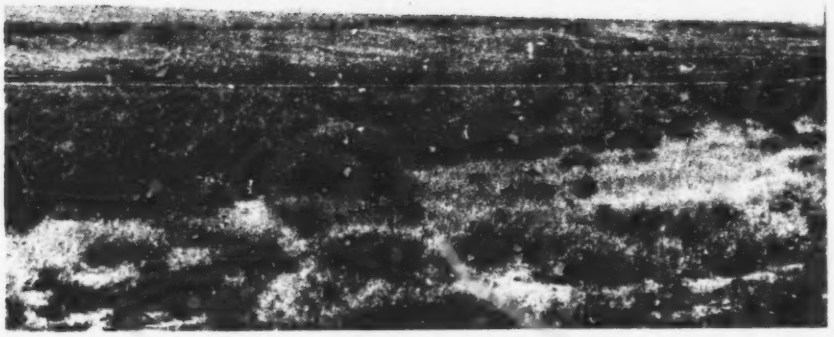
The remaining 72,730 acres of settlement land are eligible for direct sale by Reclamation, pending completion of an environmental assessment in response to the regulatory requirements of the National Environmental Policy Act of 1969 (Public Law 91-190). One purpose of the assessment, now underway, is to identify the land's highest and best public use and consider whether any of the land should be added to existing park and wildlife areas. Project officials said that most of the land probably is not needed for park or wildlife purposes and will eventually be disposed of. According to project officials, about half the land is under agricultural or grazing leases which annually generate about $33,000.

Reclamation project officials' estimates of the market value of various types of unsold settlement land ranged from $100 per acre for rocky land suitable only for grazing to $2,000 per acre for agricultural land with a water source. The following schedule shows their estimates.

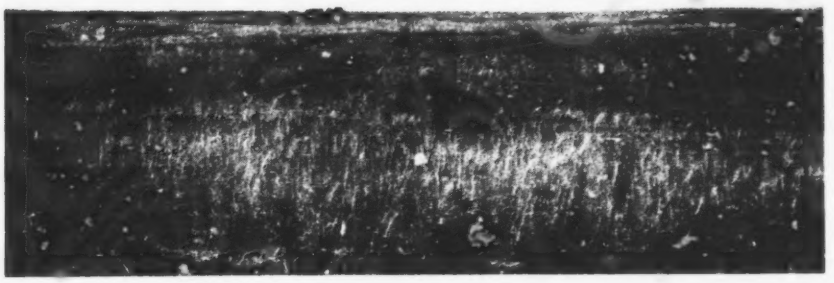
Per acre value estimate	Acreage estimate	Total estimated value
$ 100	10,980	$ 1,098,000
300	26,590	7,977,000
450	3,770	1,696,500
700	26,090	18,263,000
1,500	1,820	2,730,000
2,000	3,480	6,960,000
Total	72,730	$38,724,500

The precise amount of revenues that could be realized from future surplus settlement land sales is not known because of the many variables involved. Among these are the (1) amount of land that may be added to fish, wildlife, and recreation areas, (2) amount of land that may be offered but not sold, and (3) timing of land sales and changes in land values. The photographs on page 31 show examples of Columbia Basin Project settlement land leased by Reclamation for agriculture and grazing.

Settlement Land at Columbia Basin Project



Land leased for grazing in central portion of project.



Leased agricultural land with winter wheat in southern portion of project.

BEST COPY AVAILABLE

The rationale for crediting surplus revenues in the settlement account to the irrigation districts is not explicitly stated in congressional hearings or other legislative history preceding the 1943 act. An Interior Boise Field Office solicitor who researched the legislative history said in a January 6, 1982, memorandum to the Regional Director of Reclamation's Pacific Northwest Region that, when the legislation was passed, it was apparently anticipated that costs to purchase settlement land would be offset by revenues from the lease and sale of the land and neither the Congress nor the administration foresaw the inflationary changes in land values. As the table on page 30 shows, the irrigation districts could receive credit for an estimated $39 million in surplus revenues.

The Interior field solicitor referred to the surplus revenues as a "statutory gratuity" because the three irrigation districts never assumed responsibility for the settlement land account. After researching the legislative history and correspondence available on the project, Reclamation concluded that (1) settlement land values have increased considerably since 1943, creating potential land sales surpluses not foreseen by the Congress or the administration. (2) the total repayment obligations of the irrigation districts (construction, operation, and maintenance) would be small, and (3) it is unclear whether the Congress or the administration expected the surplus to be as large as it is presently.

Under the 1943 act, surplus revenue from the sale of settlement lands must be credited to the irrigation districts' repayment obligations. The Secretary of the Interior does have the discretion to determine the timing of the credit; thus, the revenue can be credited to the final installment(s) rather than to the current year's installment payment if consistent with the repayment contracts. Our contacts with Reclamation Pacific Northwest Region officials in July 1984 regarding how they plan to handle future surplus revenues from settlement land sales indicated that this was the alternative they would most likely pursue. These officials originally planned to suggest a legislative amendment to the 1943 act; however, because the Interior Boise Field Office solicitor concluded in a September 7, 1984, memorandum to the Regional Director of Reclamation's Pacific Northwest Region that the water districts acquired a vested right to compensation under section 6 of the 1943 act, the regional officials now plan to obtain the districts' agreement to credit future surplus revenues to the later repayments. To the extent that surplus revenues are credited to final installment(s) rather than current year installments, the government would benefit through earlier use of the money and could use the money witnout having to borrow funds and pay related interest costs.

We agree that when land costs on a project are included in water project users' repayment obligations, land sale revenues should be used to reduce the construction repayment obligations of the users. However, in the case of the Columbia Basin

Project, the water user districts assumed no liability for the purchase or sale of settlement lands, according to Reclamation. In our view, irrigation districts have not acquired a vested right to future surplus revenues from unsold excess land. Districts have a contingent expectation interest in a future statutory gratuity for which Reclamation indicates that they incurred no financial risk or liability.

The crediting of future surplus revenues from settlement land sales to the irrigation districts' repayment obligations can be prevented only by amending the 1943 act. We believe that Reclamation should consider whether government interests that would be advanced by amending the 1943 act to recover future surplus settlement land sale revenues outweigh the irrigation districts' asserted contractual, reliance, and equitable interests. If it is determined that the government's interests are paramount, Reclamation should develop for consideration by the Congress, an amendment designed to apply only to future surplus settlement land sale revenues. In order to provide Reclamation enough time to consider whether the revenues to be realized from future settlement land sales should accrue to the irrigation districts or the federal government, we believe that further sales of surplus Columbia Basin settlement land should be deferred.

CONCLUSIONS

Identifying Reclamation land as unneeded does not assure that the land will be sold. Some of Reclamation's land is remote, arid land which may have marginal market value. Other Reclamation land is being used or could be considered for use by other agencies and may merely be transferred to the using or interested agencies.

Under present legislation, Reclamation water and power users frequently benefit when unneeded Reclamation lands are sold because their project construction repayment obligations are reduced by the sale proceeds. The federal government derives some benefit in saved interest costs if these revenues are credited to the water district's final repayment obligations. We believe this treatment of land sale revenues is justified where project land costs are included in the construction repayment obligation.

The Columbia Basin Project differs from many Reclamation projects because settlement lands were purchased by the federal government separate from the project's construction program. To assist in the permanent settlement of the land, the government could lease or sell it. Settlement land values at the project site have increased considerably during the 42 years since the Columbia Basin Project Act of 1943 was passed, and there now may be substantial surplus revenues, which Reclamation officials estimated could total as much as $39 million, and which the Congress may not have anticipated.

The 1943 act, which requires surplus revenues from settlement land sales to be used to reduce the districts' repayment obligations, would have to be amended if future surplus revenues from settlement land sales are to accrue to the government rather than the water users who never participated financially in purchasing the settlement land.

We believe, therefore, that Reclamation should consider whether government interests in potential future surplus settlement land sale revenues outweigh the irrigation districts' asserted contractual, reliance, and equitable interests and thus warrant an amendment to the 1943 act. If Reclamation determines that the government's interests are paramount, it should propose legislation to the Congress which would credit future surplus revenues for the benefit of the government without reducing the repayment obligations of the irrigation districts. Pending consideration of this situation, Reclamation should refrain from further sales of the settlement land on the Columbia Basin Project.

Agricultural and grazing lessees we contacted were generally unconcerned that Reclamation could dispose of lands which they lease. Most of these lessees said that they were in favorable positions to purchase such land if it were offered for sale. Cabin-site lessees we contacted did have some reservations that selling prices of lands they occupy might be beyond their resources. Officials familiar with land sales in the areas we visited told us that Reclamation land with water could be marketed.

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

We recommend that the Secretary of the Interior direct the Commissioner, Bureau of Reclamation, to:

--Transfer any unneeded public domain land used or needed by other federal agencies to BLM for disposition.

--Consider whether interests of the federal government that would be advanced by amending the Columbia Basin Project Act of 1943 to recover future surplus settlement land sale revenues for the government rather than crediting them to the repayment obligations of the project's three irrigation districts outweigh the interests of the districts. Should it be determined that the government's interests are paramount, legislation should be submitted to the Congress specifying that future surplus revenues from settlement land sales shall be credited to the federal government.

--Refrain from selling settlement land at the Columbia Basin Project until consideration of the proper disposition of future surplus settlement land sale revenues has been completed.

DEPARTMENT OF THE INTERIOR COMMENTS AND OUR EVALUATION

The Department of the Interior commented that generally the report was complete and reasonable in its final recommendations, and Interior is determining the best method of accomplishing the recommendations and correcting the problems discussed. (See app. IV.) The Department did not address a Boise Field Office solicitor conclusion that Columbia Basin irrigation districts acquired a vested right regarding excess settlement land sales revenues at the project. The Department, however, believed that the work and findings in the text of the report warranted the following additional recommendations to supplement those we presented.

--Improve headquarters office oversight functions of both the Denver Division of Water and Land Technical Services and the Washington, D.C., Division of Water and Land. Regional and project office land management responsibilities could be improved by a more consistent review of program accomplishments by Reclamation's headquarters office staff.

--Some regions could effectively utilize additional staff and/or financial support to assist in accomplishing Reclamation's land management responsibilities. As an example, recreation, law enforcement, trespass resolution, and other related land management responsibilities have tended to be underemphasized in Reclamation. Increased management support in these areas could improve Reclamation's land management program, including identification of unneeded land.

--Reclamation should continue its support of administration objectives in identifying and properly disposing of land and land interests that have been identified as unneeded, underutilized, or not put to optimum use for Reclamation's project purposes. This should include transferring any unneeded public domain land used or needed by other federal agencies to BLM for disposition.

--Development of Reclamation's new system of monitoring land inventories and managing land use should be encouraged and expedited to the maximum extent possible.

We agree that headquarters oversight of both the Denver Division of Water and Land Technical Services and the Washington, D.C., Division of Water and Land should be encouraged to the maximum extent possible and that such oversight could improve Reclamation's land management accomplishments. Our review, however, focused on the extent to which Reclamation was identifying unneeded land rather than on headquarters oversight functions.

Regarding the recommendation concerning the need for additional staff and financial support, we are unable to comment because the thrust of our review was on Reclamation's procedures for identifying unneeded lands. We did not concentrate on the effects that related land management responsibilities of recreation, law enforcement, and trespass resolution, which according to Interior's comments have been underemphasized by Reclamation, might have on the identification of unneeded land.

We believe that our first recommendation on page 34 and Interior's third recommendation above are essentially synonymous. We support the need for Reclamation to identify all of its land and land interests which are not put to optimum use to achieve Reclamation's project purposes.

As mentioned in the report, we believe that if Reclamation properly implements its new land-use inventory and real property system, it could identify land no longer needed for Reclamation's missions. Consequently, if the new automated system is properly implemented, we would agree that it should be encouraged and expedited to the maximum extent possible.

Interior also commented that Reclamation has been active in identifying unneeded land since passage of the Reclamation Act of 1902, but that it had experienced delays in returning unneeded public domain lands to BLM prior to passage of FLPMA and in disposing of small tracts of low value acquired land through GSA. As mentioned in Interior's comments and in this report on page 21, it can sometimes take many years to complete the land disposal process even after agencies have identified land as excess to their needs. Interior said that since the passage of FLPMA, Reclamation has experienced a surge in completing public domain land disposal actions.

COLUMBIA BASIN IRRIGATION DISTRICTS' COMMENTS AND OUR EVALUATION

All three irrigation districts disagreed that the Columbia Basin Project Act of 1943 should be amended to credit future surplus settlement land sale revenues to the federal government rather than to the project's irrigation districts. The districts also commented that the lack of legislative history on the matter of crediting surplus settlement land sale revenues to the irrigation districts is irrelevant as a consequence of the clear intent of the 1943 act that such revenues be credited to the districts' construction repayment obligations. The districts provided the following additional comments.

Quincy-Columbia Basin Irrigation District

The Secretary-Attorney, Quincy-Columbia Basin Irrigation District, said that the crediting of proceeds from the sale of surplus lands to the involved districts is not a new concept and that perhaps the lack of legislative history when the Congress enacted the Columbia Basin Project Act may be explained by the consistency of the act with long-standing congressional policy of providing that profits received from the sale of surplus lands be credited to the project for which such lands were acquired. (See app. V.) He said that the manner in which the Secretary of the Interior acquired lands for the project was similar to congressional authorization for other reclamation projects and found no legal basis to distinguish the sale of Columbia Basin Project surplus lands from the applicable provisions of previous reclamation laws. He said that he did not believe that, even if the Columbia Basin Project differed from other reclamation projects in that the purchase of settlement lands was funded by the federal government separately from the projects' construction program, it would support a recommendation to amend the 1943 act.

He also said that it appears inappropriate and unconstitutional to attempt to repeal or modify existing reclamation laws after repayment contracts--which impose mutual rights, duties, and obligations on the parties thereto--have been entered into and relied upon by the irrigation districts.

The Secretary-Attorney provided supplemental information, including an interim report dated January 1963, on allocation of costs for the Columbia Basin, to demonstrate that the districts' repayment obligations include the cost of purchasing the excess settlement lands. It was not possible, however, to establish any liability for the costs of the settlement land program on the part of the irrigation districts from this information. To the contrary, Reclamation documents and officials indicate that the settlement land expenditures were not considered reimbursable costs.

South Columbia Basin Irrigation District

The South Columbia Basin Irrigation District's Secretary-Manager said that the United States acquired land for the project in basically five ways. (See app. VI.)

1. Direct purchase from willing owners.

2. Purchases from county treasurers for payments of delinquent taxes for $3 per acre or less.

3. Purchases of irrigation district lands that had been acquired by treasurer's deed for delinquent assessments, some selling as high as $4 per acre.

4. Purchasing excess land for as much as $25 per acre from landowners who executed recordable contracts.

5. Condemnation proceedings for land held by unwilling sellers or unknown owners or by lis pendens proceedings for lands in which the District held evidence of title.

The Secretary-Manager said that the purchased lands were often resold at 10 times the acquisition prices and some land that remains unsold is now valued at 200 to 600 times its cost. The Secretary-Manager also said that in the case of items 3 and 4, the District gave up its interest in the significant value appreciation that was anticipated and has been realized. He commented that the districts have a real financial investment in the settlement lands acquired by the United States. He said that the districts provided stability and enhanced the value of the land. This occurred as a result of irrigation farming by landowners; application of water to the land; and operation and maintenance of conveyance and distribution systems which increased the value of other lands by the creation of ground water supplies and the evolution of fisheries, wildlife areas, and recreational areas.

East Columbia Basin Irrigation District

The East Columbia Basin Irrigation District's Attorney indicated that when the District entered into its contract in 1945, it had relied on the right to receive surplus settlement land sale revenues in assuring its repayment obligations. (See app. VII.) He said that the conclusions reached in the report are unwarranted and that the recommendations, if implemented, would be improper if not unlawful.

- - - -

We agree that when land costs on a project are included in water user's repayment obligations, land sale revenues should be used to reduce the construction repayment obligations of the water districts. This usually occurs in the case of the traditional reclamation project where the cost of lands purchased for project development becomes a part of the project costs for which water users assume repayment obligations. Congressional policy in numerous instances, when such lands are sold, has been to credit the project costs for which the lands were withdrawn or acquired.[7]

In the case of the Columbia Basin Project, however, Reclamation indicates that the costs of purchasing the settlement lands were not part of the project costs for which the irrigation districts assumed repayment obligations. The Columbia Basin Project settlement lands were, according to a Reclamation

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[7]Act of February 2, 1911, 36 Stat. 895; Act of May 20, 1921, 41 Stat. 605.

Pacific Northwest Region official, purchased with federal funds which were accounted for separately from the project costs for which the districts assumed repayment obligations. He also told us that the irrigation districts' repayment obligations cover only 10 percent of the project costs allocable to water use. The crediting of the excess settlement land sale revenues under current law would, therefore, further reduce the irrigation districts' 10-percent repayment obligation.

We recognize that the irrigation districts may have, to some extent, relied on receipt of surplus land sale revenues as one of the benefits to be received in consideration for entering into their repayment obligations. Furthermore, water users' efforts may have enhanced the value of excess settlement lands and provided stability to the area by, for example, creating a ground water supply. We note, however, that while the irrigation districts' reliance on receipt of surplus settlement land sale revenues may raise contractual or equitable claims to such revenues, any such claims would not be immune from a congressional amendment that is tailored to achieve significant legislative objectives that outweigh the private interests to be adjusted.[8]

In our draft report, we recommended that the Secretary of the Interior direct the Commissioner, Bureau of Reclamation, to propose legislation to amend the Columbia Basin Project Act of 1943 to recover future settlement land sale revenues for the federal government rather than crediting them to the Columbia Basin Project irrigation districts. Because of the concerns raised by the irrigation districts, we revised our report to recommend that the Secretary of the Interior direct the Commissioner, Bureau of Reclamation, to consider whether government interests that would be advanced by amending section 6 of the Columbia Basin Project Act of 1943 to recover future surplus settlement land sale revenues for the federal government outweigh the irrigation districts' interests. One aspect of this inquiry would be to determine whether the Quincy-Columbia Basin Irrigation District's position that the districts' repayment obligations include the cost of acquiring the excess settlement land is well-founded. We are also recommending that if it is determined that the government's interests are paramount, legislation be submitted to the Congress specifying that future surplus revenues from settlement land sales be credited to the federal government.

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[8]See Richard v. Belcher, 404 U.S. 78 (1971); Norman v. B. & O. R. Co., 294 U.S. 240 (1935); Lynch v. United States, 292 U.S. 571 (1934).

LOCATION OF RECLAMATION-MANAGED LAND

State	Acres managed[a] Reported by Reclamation[b]	Reported by BLM[c]
Arizona	985,000	963,000
California	962,000	831,000
Nevada	942,000	429,000
Wyoming	839,000	480,000
Utah	620,000	107,000
Idaho	446,000	283,000
Washington	317,000	101,000
Montana	288,000	125,000
Colorado	248,000	234,000
New Mexico	198,000	198,000
Oregon	140,000	66,000
North Dakota	132,000	9,000
Texas	113,000	113,000
Oklahoma	100,00	95,000
Kansas	94,000	94,000
Nebraska	79,000	61,000
South Dakota	64,000	24,000
Total	6,567,000	4,213,000

[a]Reason for differences between Reclamation and BLM figures is shown in footnote (a) to table on p. 2.

[b]Bureau of Reclamation Annual Report, 1983.

[c]Bureau of Land Management, Public Land Statistics 1983.

RECLAMATION'S CRITERIA FOR PERFORMING ANNUAL REVIEWS[1]

1. Is the property being put to its highest and best use?

   a. Consider and explain the impact of surrounding land usage (i.e., commercial, industrial, agricultural, etc.), zoning, and other environmental factors.

   b. What would be the most likely use(s) of this property if it were in private ownership? (If possible, include the estimated value per acre and acreage for each use.)

   c. Explain whether the present use is compatible with state, regional, or local development plans and programs, if any.

   d. Consider whether federal use of the property would be justified if an equivalent commercial rental charge for its use was added to the program costs for the function it is serving.

2. Are operating and maintenance costs excessive compared with those of other similar facilities?

   a. Consider age and condition of major improvements, cost of services provided, etc. Are major repairs needed, and if so, are they programmed or funded?

   b. In determining cost comparison, with what similar facilities was this installation compared?

3. Will contemplated program changes alter property requirements?

   Detail what program changes are contemplated and their expected impact.

4. Is all of the property essential for program requirements?

   Explain the need for any unimproved property not otherwise exempted from disposal and identify on accompanying map if only a small portion of installation is unimproved.

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[1]Federal Property Management Regulations' criteria with Reclamation's revisions.

5. Will local zoning provide sufficient protection for necessary buffer zones if a portion of the property is released? (Buffer is defined as land held solely to lessen the adverse impact from uses of adjoining private lands.)

   What would be the effect on management operations if a portion of the property is disposed of?

6. Are buffer zones kept to a minimum?

   What lands are being held solely for buffer purposes? (Identify them on the accompanying map.)

7. Is the present property inadequate for approved future programs?

   What future programs are contemplated and what are the estimated land needs to support the program?

8. Can net savings to the nation be realized through relocation considering property prices or rentals, cost of moving, occupancy, and increased efficiency of operations? (Explain your answer and be sure to include the costs of replacing needed buildings and equipment.)

9. Have developments on adjoining nonfederally owned land or public access or road rights-of-way granted across the government-owned land rendered the property or any portion thereof unsuitable or unnecessary for program requirements? (If so, explain how, and identify the land affected on the accompanying map.)

10. If federal employees are housed in government-owned residential property, is the local market willing to acquire government-owned housing or can it provide the necessary housing and other related services that will permit the government-owned housing area to be released? (Provide statistical data on cost and availability of housing on the local market.)

    How far is it to the nearest available stable private rental market sufficient to house all federal employees currently residing in government quarters?

11. Can any land be disposed of and program requirements satisfied through reserving rights and interests to the government in the property if it is released?

    Explain what rights and interests would have to be reserved if the property were released. (Identify the land affected on the accompanying map.)

12. Is a portion of the property being retained primarily because the present boundaries are marked by the existence of fences, hedges, roads, and utility systems?

    Note the location and acreage of any property meeting this criterion on the map accompanying this report.

13. Is any land being retained merely because it is considered undesirable property due to topographical features or encumbrances for rights-of-way or because it is believed to be not disposable? (If so, identify the property on the accompanying map and state your reasons.)

14. Is land being retained merely because it is landlocked?

    Is it feasible to either provide access to the land or dispose of sufficient additional property to provide needed access? (If so, identify the property on the accompanying map.)

15. Is there land or space in government-owned buildings which can be made available for utilization by others within or outside government on a temporary basis?

    a. Has there been a reduction in staff in the past 12 months? If so, how many positions?

    b. How much land or space (specify type of space) could be available and for what estimated time period?

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UNNEEDED LAND WE IDENTIFIED AT SEVEN RECLAMATION PROJECTS

Project	Total project acreage: Acquired	Withdrawn	Total	Acres under easement	Acres we reviewed	Acres we identified as unneeded/ unreported	Unneeded leased acres	Approximate market value per acre of leased land	Approximate annual lease revenue per acre
All American Canal	16,080	587,523	603,603[a]	113	471,421	367,290	0	-	-
Central Valley	143,543	27,244	170,787	20,774	23,395	2,462	75	$50,000[b]	$16.33
Columbia Basin	208,573	77,849	286,422	80,847	165,889	62,523	5,140	450	.53
Gila	17,658	64,135	81,793[c]	7,546	25,477	12,524	0	-	-
Klamath	17,486	122,992	140,478	6,559	49,413	17,811	1,199	1,000	17.60
Orland	6,953	475	7,428	334	6,852	1,260	1,260	300	9.24
Owyhee	5,819	32,821	38,640[d]	4,639	41,796	8,714	4,445	100	.22
Total	416,112	913,039	1,329,151	120,812	784,243	472,584	12,119		

[a]Reclamation's 1982 annual report acreage total; our review indicates acreage is about 506,000 acres.

[b]A county assessor estimated that the parcel's market value ranged from $3 million to $4.5 million, or $40,000 to $60,000 an acre, depending on whether it would be developed for residential or commercial use.

[c]Reclamation's 1982 annual report acreage total; our review indicates acreage is about 62,000 acres.

[d]Reclamation's 1982 annual report acreage total; our review indicates acreage is about 41,800 acres.

APPENDIX III

44

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

IN REFER
REPLY TO: 420

OCT 5 1984

Mr. J. Dexter Peach
Director, General Accounting Office
Washington, D.C. 20548

Dear Mr. Peach:

This is in response to your undated letter received by us on August 31, 1984. This letter forwarded for our review and comment copies of a draft General Accounting Office (GAO) report entitled "The Bureau of Reclamation Could Do a Better Job of Identifying Unneeded Land."

As requested, we have reviewed the draft report. Generally, we find it complete and reasonable in its final recommendations. Land use and, accordingly, land needs are dynamic, and determinations made at any point in time may become almost immediately obsolete. This may well explain some events which seem incompatible with the picture presented in the cover summary and digest as well as throughout the report.

The subject report correctly identifies a number of deficiencies in Reclamation's land management program. Fortunately, Reclamation had come to similar conclusions several years before the audit began. The report should recognize and comment on the corrective actions being taken and some of the changes in program administration that were, and are currently, underway in Reclamation. For instance, in 1979, Reclamation instituted an extensive land-use inventory to supplement review procedures specified by Federal Property Management Regulations, Interior Property Management Regulations, and Reclamation Instructions. This inventory was followed by the initiation of a continuous intensive land-use inventory and the development of a vastly improved automatic data processing system designed to improve land management, record inventories of land under Reclamation jurisdiction, facilitate preparation of required reports, and ensure accountability and stewardship of the real property assets for which Reclamation is responsible. The system is referred to as LAPS (Land Use Inventory and Real Property System) and has been recognized by the Office of the Secretary, Department of the Interior, as being a viable prototype for possible use by all Interior bureaus. The (GAO) audit report should comment on and recognize the contribution of LAPS and revised land management procedures to Reclamation's land management program.

GAO Note: Some page references have been changed to agree with the final report.

report should comment on and recognize the contribution of LAPS and revised land management procedures to Reclamation's land management program.

[GAO COMMENT: Reclamation's land-use inventory and improved automated data processing system are recognized on pages 10 and 18 of the final report.]

The figures presented in the summary and digest pages would lead any reader to believe that in fiscal year 1983 Reclamation identified 1.3 million acres of unneeded land but, because of an error only 679,000 acres were actually available for disposal; however, during fiscal year 1983 Reclamation actually disposed of 1,120,434 acres of withdrawn public lands, and requested the revocation of the withdrawals on an additional 554,254 acres. During this same period 1,255 acres of acquired lands were identified as surplus and action either completed or started to dispose of those lands. In addition, during the first three quarters of fiscal year 1984, Reclamation also disposed of an additonal 948,684 acres of acquired and withdrawn lands. The greatest amount GAO discovered as being surplus was 1,749,600 acres. The implication of the GAO report, that Reclamation was failing to identify vast acreages of unneeded land, does not seem to be borne out by these figures.

[GAO COMMENT: We updated land disposal statistics on pages 5 and 6 of the final report. Some acreages discussed by Interior were changed after discussion with a Reclamation official to achieve compatibility with other numbers reported by us. Also, we deleted a section on clerical errors in reporting unneeded land. (See GAO comment on p. 52.)]

While the second paragraph of this letter might explain some of the report's discrepancies, we feel that the discrepancies within the report are more likely to have resulted from a misinterpretation of the collected data. Perhaps a reanalysis of the data collected during the audit is necessary.

[GAO COMMENT: We believe that the changes discussed in the GAO comment above and on page 52 eliminate any perceived discrepancies in the report. Information in the draft report was based on information provided by Reclamation officials or was the latest statistical information available at the time of our fieldwork.]

The audit report does not contain recommendations that do justice to the work and findings in the main text of the report. Based on a detailed reading of the report, we suggest the following reasonable recommendations to supplement those presented:

1. Improve headquarters office oversight functions of both the Denver Division of Water and Land Technical Services and the Washington, D.C., Division of Water and Land. Regional and project office land management responsibilities could be improved by a more consistent review of program accomplishments by Reclamation's headquarters office staff.

APPENDIX IV

2. Some regions could effectively utilize additional staff and/or financial support to assist in accomplishing Reclamation's land management responsibilities. As an example, recreation, law enforcement, trespass resolution and other related land management responsibilities have tended to be underemphasized in Reclamation. Increased management support in these areas could improve Reclamation's land management program, including identification of unneeded land.

3. Reclamation should continue its support of Administration objectives in identifying the properly disposing of land and land interests that have been identified as unneeded, underutilized or not put to optimum use for Reclamation's project purpose. This should include transferring any unneeded public domain land used or needed by other Federal agencies to the BLM (Bureau of Land Management) for disposition.

4. Development of Reclamation's new system of monitoring land inventories and managing land use (LAPS - the Land Use Inventory and Real Property System) should be encouraged and expedited to the maximum extent possible.

[GAO COMMENT: We comment on these recommendations on pages 35 and 36.]

Our detailed comments on the various sections are attached. The person knowledgeable about these comments is Mr. Terence Cooper, telephone 343-5204.

Sincerely yours,

Ted O. Christensen

ACTING Asssistant Secretary
for Water and Science

Attachment

As pointed out in the cover letter, we assume that some reanalysis of the raw data will be undertaken to reassess conclusions drawn from the data.

We assume that the final report will have tighter editorial control. For instance, almost identical statements appear on pages 20 and 21 concerning sale of Reclamation land; and on pages 24, 27, and 34 concerning lessees and potential purchasers.

There are numerous references to the "Denver Engineering and Research Center staff," which presumably refers to staff in the Division of Water and Land Technical Services. The correct reference would be to name the Division since distinct organizational titles are involved. This would avoid confusion with the counterpart organization in Washington, D.C., which also fulfills headquarters office functions, as distinct from the engineering and research functions of Reclamation's Engineering and Research Center.

[GAO COMMENT: As a result of technical changes to the final report, most references to the Denver Engineering and Research Center staff have been deleted from the final report. Reference to the Division of Water and Land Technical Services was added where warranted.]

Reference is made several times to concurrence by project officials that "land was not needed" or was "not currently used for project purposes." If these lands were not reported as excess to Reclamation's needs, this would be contrary to Reclamation's policy and to various Federal and Interior regulations. A list of the project and/or regional office contacts by the audit team would be valuable. Followup actions in response to the final audit report recommendations could then be initiated. This would be consistent with the statements by the Chief, Land Resources Management Branch, reported on page 14 of the report.

[GAO COMMENT: A list of officials was provided to Reclamation's Land Resources Management Branch.]

No attempts were made to validate the various statistics as presented, but the report should be more consistent. For instance, on page 2, Reclamation's holdings are referred to as 4,214,000 acres taken from statistics published by the Bureau of Land Management. On page 6, reference is made to 4.6 million acres of public domain land Reclamation manages. The text should match the table. Also, on page 2, the first paragraph talks about Federally owned land. The second sentence, however, states "The four agencies, whose programs we reviewed, own about * * * ." The report should be clarified to indicate that the land is owned by the United States, not the agencies, and that the land is merely under the jurisdiction of the individual agencies.

[GAO COMMENT: As the footnote to the table on page 2 explains, land statistics reported by BLM and Reclamation may vary. We clarified the statistics used where warranted.]

On Page 2, in the first sentence of the first paragraph, it states "Reclamation is basically a water resource development bureau and not a land management-oriented agency." In the past, this statement was essentially true, but recently Reclamation has become more concerned about its land management responsibilities and is taking land management much more seriously. This is evidenced by the implementation of a continuous land use inventory program, and the development of the new computerized LAPS that is currently being brought on line. The report should reflect these changes in Reclamation's program emphasis, particularly since the Department has informally advised us that Reclamation leads many of the other land managing agencies in the development of a modern, comprehensive, automated land use inventory.

[GAO COMMENT: We have recognized Reclamation's changes to its land management program in the final report.]

On page 4, under "DISPOSITION OF RECLAMATION LAND BY BLM AND GSA" the procedure described for Reclamation to divest itself of jurisdiction over withdrawn public lands is procedurally, incorrect. The correct procedure is as follows:

> When Reclamation identifies unneeded withdrawn public domain lands, it prepares a request to BLM to revoke the withdrawal which Reclamation holds. BLM decides if the lands are suitable for return to the public domain. If the lands are suitable for returning to the public domain, BLM prepares a Public Land Order which is signed by the Assistant Secretary, Land and Mineral Resources, and published in the Federal Register completing the revocation action. If the lands are not suitable for return to the Public Domain BLM advises Reclamation to report the lands to GSA for disposal. In any event Reclamation's jurisdiction over, and responsibility for the land is not relieved until either the Public Land Order is published or GSA accepts the reported land.

[GAO COMMENT: We have changed the report accordingly.]

On pages 5 and 6, Reclamation's direct land sale authority is discussed, and statistics on sales by Reclamation are mentioned on page 6. These data could be included in the statistical information presented on page 5. It might also be important to point out that in 1984, Reclamation offered 160 acres of sale near Henderson, Nevada, and did not receive even one offer to purchase. Five hundred acres were also offered near Riverton, Wyoming; again, no response.

[GAO COMMENT: The updated 1984 statistics are included on page 6 of the final report.]

The "Objectives, Scope and Methodology" discussion on page 6 and 7 could be more logically presented earlier in the report. Also, on page 7, there is a reference to "3.9 million (60 percent) and 1.3 million (20 percent) * * *" which is without identification of the source of the percentages. These percentages are apparently not based on the BLM statistics presented on page 2.

[GAO COMMENT: The source of the percentages was added to the final report.]

On page 10, there is a reference to "* * * in fiscal year 1984, it (Reclamation) began implementing a new inventory of all of its project lands." Actually, the inventory has been underway continually since dramatically increased emphasis was given to the inventory and utilization survey process in 1978.

[GAO COMMENT: The report was changed to recognize Reclamation's changes to its land-use planning process.]

On page 14, last sentence of the first paragraph, it states "We believe that the intent of Executive Order 12348 was that Federal agencies promptly identify and release for disposition all their real property holdings including land no longer essential to their activities and responsibilities." The intent of Executive Order 12348 was not to dispose of "* * * all real property holdings * * *" as stated in the subject report, but rather "* * * to ensure that real property holdings no longer essential to their (executive agencies) activities and responsibilities are promptly identified and released for appropriate disposition" as stated by the executive order.

[GAO COMMENT: The report was changed to recognize Interior's suggested change.]

On page 17, reference is made to regions issuing regulations. Requirements for annual reviews are found in Federal and in Interior Property Management Regulations and in Reclamation Instructions. Reclamation's regional offices do not necessarily need to issue specific additional instructions on how to make the annual reviews.

[GAO COMMENT: The reference to regions issuing regulations was deleted from the report.]

On page 34, recommendations are listed that approximate, but do not match, those found in the front of the report (page vi). The two sets should be identical .

[GAO COMMENT: The recommendations were made identical.]

Appendix II lists "Reclamation Criteria for Performing Annual Reviews." Since this is substantially a reproduction of Federal Property Management Regulations, a photographed copy of the exact regulations might be preferable to a retyping.

[GAO COMMENT: Since we refer specifically to Reclamation's criteria in chapter 2 and discuss a region's response to question 5, we kept Reclamation's criteria.]

The comments and discussion in the report concerning the "* * * 621,000 acres which should not have been reported * * *" contain a number of inaccuracies and misleading statements. GAO's repeated reference to this issue is also somewhat disturbing since it is mentioned in six separate locations, including the following: The Cover Summary; the Digest, page ii; the Digest, page iii; chapter 2, page 14, chapter 2, page 15 (the entire page is devoted to this issue); and chapter 2, page 28. The report should be revised to reflect the following information:

1. As part of its FY 1982 Annual Real Property Utilization Survey, required by FPMR 101-47.8, IPMR 114-47.8, Reclamation Instruction 215.10, IPMR Temporary Regulation No. 32, and Executive Order 12348, Reclamation reported 109,006 acres (100,963 withdrawn and 8,043 acquired) as federally owned real property remaining in inventory and identified during the past fiscal year as unneeded, underutilized, or not being put to optimum use. This is referred to as "Appendix I." Reclamation also reported 1,205,437.21 acres (1,173,995 withdrawn and 31,442.21 acquired) as Federally owned real property remaining in inventory which was identified in years prior to the past fiscal year as unneeded, underutilized, or not being put to optimum use. This is referred to as "Appendix II."

2. As part of the Appendix II portion of the report, 785,868.88 acres were shown as a September 16, 1981 revocation application pending action by BLM. This parcel was listed under the State of Nevada for the Lower Colorado Region of Reclamation. After examination of Reclamation's FY 1982 Real Property Utilization Survey, GAO requested clarification of the 785,868.88-acre entry in Appendix II of the report. Based upon examination of Reclamation's records by the staff of the Division of Water and Land Technical Services in Denver, GAO was advised that the entry appeared to be an error. Further research by Reclamation disclosed that a majority of the acres in question were associated with the Glen Canyon National Recreation Area and still under Reclamation withdrawal. The only "clerical error" involved here was showing the parcel in the State of Nevada, rather than Utah and/or Arizona. Since jurisdiction for the Glen Canyon project is shared by Reclamation's Lower Colorado and Upper Colorado Regions, it was not incorrect to list the acres under the Lower Colorado Region, however, listing the acres under the Upper Colorado Region may have been more appropriate.

3. At the time this parcel was shown in Appendix II as real property identified in past years as unneeded, inventory jurisdiction between the National Park Service and the Bureau of Reclamation was still in question. This question has since been resolved. Since all of these acres were excess to Reclamation's needs and still under Reclamation withdrawal, it was believed appropriate at the time to continue to list these acres in Appendix II based upon Interior and Federal guidelines governing reporting procedures.

[GAO COMMENT: The draft of this report contained a section titled "Report of Unneeded Land Contained Errors" which discussed what appeared to be several clerical errors in Reclamation's list of unneeded project lands. Information contained in the draft report represented the latest and best information available at the time of our fieldwork. Based on the updated information provided by the Department of the Interior, the section on clerical errors was deleted from the report.]

The report generally reflects a great deal of work and effort in its research and presentation. Hopefully, the comments will further assist Reclamation in managing the real property assets under its jurisdictions.

There seemed to be an unspecified assumption that the identification of unneeded property was an effort stressed as a priority for the first time following the issuing of EO 12348. This is not the case. In Section 3 of the Reclamation Act of 1902 Reclamation was directed to ". . . restore to public entry any land so withdrawn when, in his judgement, such lands are not required for the purpose of this Act . . . ." Reclamation has been active in following this since that time; however, while the agencies which were the predecessors of BLM were interested in granting withdrawals, which were considered a disposal of the public lands, they were not interested in making revocations. Reclamation had revocation requests that had been on file with BLM for 20 years or more without action. As previously described these lands remained in Reclamation's jurisdiction until BLM took final action. After a while the fruitlessness of attempting to revoke withdrawals becomes obvious. The change in priorities of the post FLPMA era of BLM has been a strong factor in Reclamation's recent surge in land disposal completions. Somewhat the same problem exists with the disposal of small tracts of low value acquired land through GSA. Reclamation has been very active in identifying and disposing of unneeded lands for 80 years; however, the completion of disposal actions depends on other agencies whose zeal may be somewhat less than ours.

[GAO COMMENT: We recognized the requirements as stated in the Reclamation Act of 1902 and discuss the problems in disposing of Reclamation land in chapter 3 of the final report.]

We are reviewing the draft recommendations and problems identified. We are tentatively determining the best method of accomplishing the recommendations and correcting the problems.

QUINCY-COLUMBIA BASIN IRRIGATION DISTRICT
TELEPHONE 787-2316 • POST OFFICE BOX 188
QUINCY, WASHINGTON 98848

January 14, 1985

Mr. Brian P. Crowley, Director
Resources, Community & Economic
Development Division
United States General Accounting Office
Washington, D. C. 20548

Dear Mr. Crowley:

Reference is made to your letter of December 13, 1984, addressed to Mr. Tom Cotton, Manager of the Quincy-Columbia Basin Irrigation District, a copy of which is enclosed for your ready reference. The Board of Directors of the Quincy District reviewed your letter at their January 1985 Board meeting and have requested that I, as Secretary-Attorney of the District, respond thereto.

As you might have expected, the Board of Directors, as Project landowners and in their fiduciary capacity representing all of the landowners within the District, did not enthusiastically embrace your recommendation that the existing law should be changed so that the United States would receive the net profits from the sale of the settlement lands.

We would like to point out in Section 6 of the Reclamation Act of 1943 in providing for the crediting of proceeds from the sale of surplus lands to the involved districts is not a new concept. Rather, it has been the long standing policy of Congress to provide that profits received from the sale of surplus lands not needed for project purposes be credited to the project for which such lands were acquired. Please refer to the Act of February 2, 1911, 36 Stat. 895.

Also, to further illustrate the historic position of Congress with respect to the sale of surplus lands, please refer to the Act of May 20, 1921, 41 Stat. 605, which provides for the sale of surplus improved public lands no longer needed in connection with reclamation projects. This Act provides that the monies derived from the sale of such public lands determined to be surplus are to be covered into the Reclamation Fund and placed to the credit of the project for which such lands had been withdrawn. Perhaps the alleged lack of legislative history as to the 1943 Columbia Basin Project Act can be explained by the consistency of the Act with Congressional policy of long standing. Also, legislative history is only necessary when a particular statute is ambiguous and most certainly there is nothing ambiguous in the language of Section 6 of the 1943 Act.

APPENDIX V

The statement is made in your draft enclosure that the Columbia Basin Project differs from any reclamation project in that the purchase of settlement lands was funded by the federal government separately from the projects' construction program. Even if this statement is correct, it offers no support for your position.

The Columbia Basin Project Act of 1943, Section 7, authorized appropriations from the United States Treasury such monies as may be necessary to carry out the provisions of the Act. Section 4 of the 1943 Act directed the Secretary of Interior to "acquire such lands or interest in lands, within or adjacent to the Project area, as he deems appropriate for the protection, development, or improvement of the Project". Obviously, such expenditures were Project costs and have so been accounted for. Such authorization is similar to Congressional authorization for other reclamation projects and we find no legal basis to distinguish the sale of Columbia Basin Project surplus lands from the applicable provisions of federal reclamation law existing since the Act of February 2, 1911 and of May 20, 1920. Obviously, acquisition of lands and construction are part and parcel of total Project costs upon which a District's repayment obligation is based.

In view of historic Congressional policy, ratified and reasserted by the Columbia Basin Project Act of 1943, the Directors of the Quincy District and all other Project landowners will vigorously oppose any legislation introduced in Congress to attempt to change the law as it presently relates to existing projects. However, it appears most inappropriate and unconstitutional to attempt to repeal or modify existing reclamation laws after repayment contracts have been entered into based upon then existing laws relied upon by the contracting parties (the United States and irrigation districts), which contracts impose mutual rights, duties and obligations.

We note with interest the statement in your Draft to the effect that an Interior Solicitor concluded that the irrigation districts have a vested interest in the profits pursuant to Section 6 of the 1943 Act. We believe this conclusion to be inescapable but it apparently is in conflict with your administrative position that no such vested right exists. It will be interesting to note the reaction of the Secretary of Interior when requested to introduce legislation to abolish the rights of the districts when his Solicitor has advised that such rights have been vested in the districts by federal law.

APPENDIX V

We appreciate your courtesy in advising us of your intentions as set forth in your letter of December 13, 1984 and the Draft which you attached. We would further appreciate being kept advised of any future action on your part to recommend to the Secretary of Interior to introduce the type of legislation which you propose so that we could take appropriate action through our Congressional delegation.

Sincerely,

QUINCY-COLUMBIA BASIN IRRIGATION DISTRICT

By: _____
Secretary-Attorney

JWB:fh
Encl.

cc: Senator Slade Gorton (w/encl.)
Senator Dan Evans (w/encl.)
Representative Thomas S. Foley (w/encl.)
Representative Sid Morrison (w/encl.)
Attorney Richard Lemargie, Attorney ECBID
South Columbia Basin Irrigation District
Mr. Russell D. Smith, Manager SCBID Power Division
East Columbia Basin Irrigation District
Mr. Tom Cotton, Manager Q-CBID
Regional Director USBR, Boise
Mr. James V. Cole, Project Manager, Ephrata

APPENDIX VI

"The Green Spot of the Colu Basin"

South Columbia Basin Irrigation District

POWER GENERATION DIVISION
(509) 545-2070 • 403 W. Columbia • P.O. Box 1006 • Pasco, Washington 99301

January 9, 1985

Re: Project Reclamation

Mr. Brian P. Crowley
Senior Associate Director
Resources, Community, and Economic Development Division
United States General Accounting Office
Washington, D. C. 20548

Dear Mr. Crowley:

I have before me your letter of December 13, 1984, to Mr. Merle Gibbens, Secretary-Manager of the Irrigation and Drainage Division of this Irrigation District. Your letter included a "DRAFT REPORT" on the Columbia Basin Project Settlement lands and solicits our review and comments.

Having been directly associated with the development of the Project continuously since June of 1948, I find that both your letter and the "DRAFT REPORT" to be erroneous and malicious. As to the unlawfulness of your actions and proposal, I will defer to the other two districts representatives who, I am sure, will properly address your malignant behavior.

Your letter and the thesis of your report are based on the confusion presented in the second paragraph of your letter, and the envy exhibited in the second paragraph of the conclusion section on page 7 of the report.

Your attitude and apparent definition of irrigation districts as some inanimate, consciousless entity needs correction. An irrigation district is a non-profit, quasi-municipal corporation composed of an area of land represented by the landowners, all of whom are taxpayers and voters.

Your giving us 15 days from the mailing of your letter to respond to an action involving application of some $39,000,000 can only be considered a devious action.

We care little about your findings of the legislative history of the March 10, 1943, Columbia Basin Project Act because our contracts with the United States of America are developed and written around the laws available and solicitors' opinions issued at that time.

Your quotation of the Interior Field Solicitor that revenues derived from sale of settlement lands is considered nothing more than an intentional innuendo. Who was the Solicitor and how is that opinion identified and documented?

APPENDIX VI

Now, as to the acquisition of the Settlement Lands on the Project and the participation of the South umbia Basin Irrigation District in that acquisition: The United States acquired that land in basically five (5) ways. First, there were a few direct purchases from willing owners. Second, considerable land was purchased from the County Treasurers for payment of delinquent taxes for $3.00 per acre or less. Third, the District sold lands that had been acquired by Treasurer's deed for delinquent assessments, some selling as high as $4.00 per acre. Fourth, the U. S. acquired lands by purchasing "Excess" land from landowners who executed Recordable Contracts for as much as $25.00 per acre. Fifth, they acquired much of the land through condemnation proceedings for land held by unwilling sellers, unknown owners or by LIS PENDENS proceedings for lands in which the District held evidence of title.

Those same lands were often resold at ten times the acquisition prices and some that remain unsold are now valued at 200 to 600 times their cost. In the third and fourth methods listed above, the District gave up its interest in the significant value appreciation that was anticipated and has been realized.

As late as July 1958 the District sold land to the United States for less than $50.00 per acre.

In addition, the Districts have provided the stability that has enhanced the value of the lands acquired by the United States. The irrigation farming of the Project lands by the District landowners, the application of water to the lands and the operations and maintenance of the conveyance and distribution system at the expense of the District landowners have increased the value of other lands by creation of a readily accessible ground water supply and the evolution of magnificent fisheries, wildlife areas and recreational areas. These areas are dependent on the operations of the District landowners. Prior to development, the district lands paid assessments to finance the efforts to bring water to the desert and assure the investment of the United States.

The Districts have a real financial investment in the settlement lands acquired by the United States.

In closing, I must remind you that the Columbia Basin Reclamation Project is only 50% completed as specified in the contracts between the United States and the three districts, which brings to mind the question: How does the integrity of our contracts compare with the treaties of the American Indian?

Please do not intimidate us with the privacy and sanctity of your paper.

Very truly yours,

Russell D. Smith
Secretary-Manager

RDS:gy

(See Page 3 for distribution)

APPENDIX VI

Mr. Brian P. Crowley
Page 3

January 9, 1985

cc: Senator Slade Gorton, w/copy of incoming letter & draft
Senator Dan Evans, w/copy of incoming letter & draft
Representative Thomas S. Foley, w/copy of incoming letter & draft
Representative Sid Morrison, w/copy of incoming letter & draft
Attorney Richard Lemargie
Attorney John Baird
Merle Gibbens, Manager, SCBID, Irrigation & Drainage Division
Tom Cotton, General Manager - QCBID
Richard Erickson, Secretary-Manager, ECBID
Regional Director U.S.B.R., Boise
Bill Gray, U.S.B.R., Ephrata

EAST COLUMBIA BASIN IRRIGATION DISTRICT

P. O. Box E OTHELLO, WASHINGTON 99344 Phone 488-9671

December 28, 1984

Brian P. Crowley, Director
Resources, Community, and
Economic Development Division
UNITED STATES GENERAL ACCOUNTING OFFICE
Washington, D.C. 20548

Dear Director Crowley:

I am in receipt of your letter of December 13, 1984, which requests the response of the East Columbia Basin Irrigation District to the proposed report of the General Accounting Office relating to disposition of revenues from the sale of settlement lands on the Columbia Basin Project. The response period specified in that letter does not afford appropriate time to document the District's position, however, I believe your office should recognize the intensity of concern that the report submitted to Congress accurately reflect existing law and include recommendations to the Secretary of Interior which are proper and lawful.

The proposed report concludes that under the Columbia Basin Project Act (Act of March 10, 1943, Ch. 14, 57 Stat 14), surplus revenues from the sale of settlement lands must be credited to the irrigation districts' construction repayment obligation. The proposed report also notes that Interior's Boise Field Office Solicitor concluded that the districts acquired a vested right to such revenues under Section 6 of the Columbia Basin Project Act.

It appears, however, that the General Accounting Office is about to conclude that irrespective of what the law has been for more than forty years, and irrespective of contractual committments the Districts made in reliance on the law to pay more than ninety six million dollars ($96,000,000) toward construction of the Project and to pay in excess of ten million dollars ($10,000,000) annually for operation and maintenance of Project reserved works and to perform all operation and maintenance activities on the irrigation Project, the irrigation districts have not acquired a vested right to surplus revenues but have merely a contingent expectation interest in a future statutory gratuity for which the districts allegedly incurred no financial risk or liability.

No legal authority is cited in support of this conclusion, only argument that the Congressional hearings or other legislative history preceding the Columbia Basin Project Act does not explicitely state the rationale for crediting surplus revenues in the settlement account to the irrigation districts.

APPENDIX VII

It is submitted that the express language of Section 6 of the Columbia Basin Project Act does not lend itself to interpretation, and as a consequence, the alleged lack of legislative history is not relevant.

Section 6 should be construed in a manner which is consistent with the entire Columbia Basin Project Act. That Act authorized continuation of the construction of a multi-purpose federal reclamation project provided that irrigation districts were willing to enter into repayment contracts which required the repayment of a part of the cost of construction of the Project and the cost of operation and maintenance of the Project.

The East Columbia Basin Irrigation District, for and in consideration of the various benefits conferred by the Columbia Basin Project Act as well as other federal reclamation law, entered into such a repayment contract in 1945. One of the benefits conferred in exchange for assumption by the District of a repayment obligation and other financial obligations and duties was the right to receive credit of surplus revenues from settlement land sales against its construction obligation as more fully set forth in Section 6 of the Columbia Basin Project Act.

The proposed report attempts to prevent proper crediting of future surplus revenues from settlement land sales by recommending submission of proposed legislation which would change the law to comport with current General Accounting Office philosophy and by recommending that Interior refrain from selling settlement lands until Congress completes its deliberations on the proposed legislation. The conclusions reached in the proposed report are unwarranted and the recommendations, if implemented, would be improper if not unlawful. Unless the Department of Interior has acted contrary to existing law in managing settlement land sales and the revenues therefrom, all reference to this subject should be deleted from the final report to Congress.

Very truly yours,

Richard A. Lemargie
Attorney for East Columbia
Basin Irrigation District

RAL:deb

cc: Attorney - Quincy-Columbia Basin Irrigation District
Attorney - South Columbia Basin Irrigation District
Regional Director - United States Bureau of Reclamation
Project Manager - United States Bureau of Reclamation

(146685)